

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Claim Numbers: HQ08X01180,  
HQ08X01413  
HQ08X01416  
HQ08X03220  
HQ08X01686

B E T W E E N :

(7) BISHAR AL RAWI  
(8) JAMIL EL BANNA  
(9) RICHARD BELMAR  
(10) OMAR DEGHAYES  
(11) BINYAM MOHAMMED  
(12) MARTIN MUBANGA

Claimants

and

(1) THE SECURITY SERVICE  
(2) THE SECRET INTELLIGENCE SERVICE  
(3) THE ATTORNEY GENERAL  
(4) THE FOREIGN AND COMMONWEALTH OFFICE  
(5) THE HOME OFFICE

Defendants

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EXHIBIT LC5

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IN HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Claim Nos. HQ08X01180  
HQ08X01413  
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HQ08X03220  
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BETWEEN

- (1) BISHAR AL RAWI
- (2) JAMIL EL BANNA
- (3) RICHARD BELMAR
- (4) OMAR DEGHAYES
- (5) MOAZZEM BEGG
- (6) BINYAM MOHAMED
- (7) MARTIN MUBANGA

Claimants

- and -

- (1) THE SECURITY SERVICE
- (2) THE SECRET INTELLIGENCE SERVICE
- (3) THE ATTORNEY-GENERAL
- (4) THE FOREIGN AND COMMONWEALTH OFFICE
- (5) THE HOME OFFICE

Defendants

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CLAIMANTS' PROVISIONAL STATEMENT OF ISSUES

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Introduction

1. The Claimants are former detainees of the United States detention facility at Guantanamo Bay, Cuba. Prior to their arrival at Guantanamo Bay they were detained at various locations including Zambia, The Gambia, Morocco, Pakistan and Afghanistan. They allege that their detention was at all times unlawful and that they were each the victims of extraordinary rendition, torture and inhuman and degrading treatment. They further allege that the Defendants are liable to them in damages at common law and (so far as the first two Claimants are concerned) under the Human Rights Act 1998 in respect of their unlawful detention and ill-treatment. Their claims are summarised at paragraphs 11 to 15 of the Particulars of Claim served on behalf of the First to Fifth Claimants,

paragraphs 5-7 of the Particulars of Claim served on behalf of the Sixth Claimant and paragraphs 1-3 of the Particulars of Claim served on behalf of the Seventh Claimant. The Claimants' common law claims are based on false imprisonment, trespass to the person, conspiracy, torture, breach of contract, negligence and misfeasance in public office.

2. The Defendants deny any liability to any of the Claimants.

**Agreed factual background common to all claims**

3. The following elements of the factual background to the Claimants' claims are not in dispute:

- (a) The Claimants were each detained for the following periods:

Mr Al Rawi 8/11/02-30/3/07 (PC 1; D 5<sup>1</sup>);

Mr El Banna 8/11/02-19/12/07 (PC 1; D 5);

Mr Deghayes 1/4/02-20/12/07 (PC 3; Deghayes D 5);

Mr Belmar 7/2/02-25/1/05 (PC 2; Belmar D 5);

Mr Begg 1/2/02-25/1/05 (PC 4; Begg D 5);

Mr Mohamed 10/04/02-23/02/2009 (Mohamed PC 14; Mohamed D 4, 22)

Mr Mubanga 13/03/02-24/01/05 (Mubanga PC 16, 27; Mubanga D 24, 37, 55, 134).

- (b) The First and Second Defendants ("the Security Services") were deployed to the detention facilities in Pakistan, Morocco, Zambia, Afghanistan and Guantanamo Bay and participated in, and facilitated, the interrogation of detainees held at these locations by the provision of questions to those carrying out interrogation or by themselves questioning the detainees held there and benefited from the product of these interrogations. This participation included participation in the interrogation of each of the Claimants and included interrogations conducted "jointly" with foreign

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<sup>1</sup> Unless stated to the contrary references to PC are to the Particulars of Claim served on behalf of the First to Fifth Claimants. References to D are to the Defence served in relation to Mr Al Rawi and Mr El Banna. References to other Defences are prefaced by the relevant Claimant's name e.g. Begg D.

government officials. A schedule (Schedule A) setting out the admitted attendance of the Security Services at the interrogation of the Claimants is annexed hereto;

- (c) There is now a significant body of material in the public domain indicating that detainees held in Pakistan, Morocco, Afghanistan and Guantanamo in the period 2001 to 2008 in relation to alleged suspicions of involvement in terrorism were subjected to systematic abuse amounting to torture and inhuman and degrading treatment (PC Schedule);
- (d) Serious concerns in relation to detainee treatment were identified by the Security Services in January 2002, March 2002 and April 2002 (PC 357, 365; Al Rawi D 89, 95-96, 102, Belmar D 114, 120-121; Deghayes 82, 88-89; Begg D 159, 165-166; Mohamed D 136; Mubanga D 105, 111). From 26 April 2002 the Security Services received reports about Mr Mohamed's detention (Mohamed PC 31; Mohamed D 38). In June 2002 the Security Services discussed a report produced by United States authorities referring to sleep deprivation, hooding and withholding of blankets from a detainee in Afghanistan with the FCO but the specifics were not drawn to Ministers' attention until June 2004 (PC 375; Al Rawi D 103; Belmar D 128; Deghayes 96; Begg 173). In July 2002 Officer 3137 reported a conversation that he and Officer 702 had had with a US official relating to sleep deprivation, stress positions and hooding of Mr Begg (PC 374.6; Al Rawi D 102(5), (6); Belmar D 127(5), (6); Deghayes 95(5), (6)); Begg 172(5), (6)). The Security Services determined that they should suspend their involvement in interrogations at Guantanamo Bay in February 2004 (D 59(6)). On the 18<sup>th</sup> March 2009 the Prime Minister announced that had ordered a review of the conduct of the Security Services in light of disclosures about the treatment of the Sixth Claimant and that he would publish the guidance for the interrogation of individuals by members of the Security Services;
- (e) For a number of years the Defendants took no steps to secure the release of the Claimants from detention and in some cases they indicated that they would not press for any consular access to them or would not object to their

trial by Military Commission (PC 48, 134.6, 135, 276.5, 279, 306.1; Mohamed PC 101; Mubanga PC 30(g), 44; D 41; Belmar D 44; Begg D 39.5, 41, 90; Mohamed D 58, 86; Mubanga D 125-134).

#### Factual issues common to all claims

##### **The Defendants' non-admissions**

4. A number of the Claimants' factual allegations are not positively denied by the Defendants but they are, instead, not admitted. These include the following:
  - (a) The Claimants' allegations that they suffered trespass to the person, torture and inhuman and degrading treatment during their detention (PC 66-67, 70, 75-78, 130, 149-150, 160-161, 188-189, 193-196, 209-210, 222-223, 231, 286-287, 301-2; Mohamed PC 99; Mubanga PC 9, 41; D 50, 52-54; Belmar D 27, 51, 70-71, 110; Deghayes D 38-51, 52, 54 63; Begg D 49, 51, 55, 75; Mohamed D 121, 156; Mubanga D 8, 88, 116);
  - (b) The Claimants' allegations that their detention and rendition was unlawful (PC 72-78, 146-50; Mohamed PC 6, 17, 50-51, 73, 75; Mubanga PC 28-29; D 51-53; Mohamed D 58, 150-153; Mubanga D 81-82)<sup>2</sup>
  - (c) The Claimants' allegation that no Cabinet Office or other Ministerial approval was sought for the Security Services' involvement in interrogations at Guantanamo Bay until March 2002 (PC 360; Al-Rawi D 92-93);
  - (d) The Claimants' allegation that no written guidance was ever in place in relation to interrogation of detainees held at Guantanamo Bay (PC 368; Mubanga PC 42(d), 43(b); Al Rawi D 97; Mubanga D 106-108, 120) and that the Guidance which was issued in relation to interrogation of detainees

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<sup>2</sup> [NOTE: possibly delete this, since it is dealt with below at para 7(b).]

held in Afghanistan was erroneous in law (PC 358, 395; Mohamed PC 102; Al Rawi D145; Mohamed D 131, 139-142).

5. The Claimants have also alleged that at all material times the Defendants were aware, or ought to have been aware, of the United States' engagement in extraordinary rendition and their deployment of interrogation methods which failed to respect the Geneva Conventions and which constituted inhuman or degrading treatment and torture (either directly or through intelligence agencies of other countries known to practise torture) (PC 380-381; Mohamed PC 26-27; Mubanga PC 30(j)). They have set out a detailed 16 page chronology particularising all factual matters in the public domain at the date of service of the Particulars of Claim and supportive of such a case on knowledge (PC Schedule). The Defendants have averred that the Particulars of Claim are "*vague and unparticularised*" (D 107; Deghayes D 100; Begg D 177; Belmar D 132; Mohamed D 156-157; Mubanga D 114). They have, however, sought no further particulars of these paragraphs in the Particulars of Claim and have made no reference to the Claimants' Schedule, where relevant (either to admit, not admit or deny the same) in their defences.

#### **The Defendants' denials and positive averments**

6. Certain elements of the Claimants' claims are the subject of specific denials and positive averments. Principal among these are the following:
  - (a) That at all material times the Security Services acted in the proper discharge of their statutory functions to protect and safeguard national security and protect the United Kingdom from terrorism (Al Rawi D 13-21; Deghayes D 12-20; Begg D 11-19; Belmar D 12-20; Mohamed D 10-18; Mubanga D 9-17);
  - (b) That the security and intelligence services, their servants or agents did not falsely imprison or commit any act of trespass against the Claimants (Al Rawi D 115-117; Deghayes D 108-110, 127-128; Begg 185, 206; Belmar

140-142; Mohamed PC 101; Mohamed D 147-149, 155; Mubanga D 78-79, 87).

- (c) That the Security Services at no point acted in furtherance of a joint enterprise, in concert or combination with the United States or others to do any unlawful act with intent to injure the Claimants or with that as their predominant purpose or that they were at any point recklessly indifferent as to their fate (PC 383-387; Mohamed PC 99-101, 103-104; Mubanga PC 28-30; Al Rawi D 122-124, 132-136; Mohamed D 124-126, 143-146, 154-159; Mubanga D 56-71, 83-86, 89-91, 93, 117);
- (d) That none of the Defendants were in breach of any duty arising out of the alleged tort of torture (PC 391-398, 420-423, 437-440, 458-462; Mohamed PC 99-104; Mubanga PC 42-43; Al Rawi D 138-147; Belmar D 159-185; Deghayes D 138-150; Begg D 213-214; Mohamed D 122-146; Mubanga D 117-123, 143-146);
- (e) That none of the Defendants were in breach of any duty of care owed to the Claimants in the tort of negligence (PC 406-408, 428-430, 445-447, 463-465; Mubanga PC 33-38, 42-43; Mohamed PC 105-107; Begg D 215-217, Mohamed D 160-164; Mubanga D 99-102, 122, 125);
- (f) That the part played by the individual officers of the Security Services in the interrogation of the Claimants did not constitute misfeasance in public office because (1) they were at all times acting in the exercise of the Security Services' duty to protect national security; (2) it was not unlawful (3) they did not intend to injure any of the Claimants; (3) they were not aware that they were acting unlawfully and (4) they were not reckless as to whether they were doing so (PC 410-416, 432-433, 449-450, 467-468; Mohamed PC 108-113; Mubanga PC 31-32; D 157; Belmar D 205; Begg D 221; Deghayes D 172; Mohamed D 165-170; Mubanga D 95-97).
- (g) That no act or omission on the part of the Security Services or the other Defendants caused any of the Claimants to be detained any longer than they otherwise would have been or to be treated any differently than they

otherwise would have been (PC 405, 409, 427, 431, 444, 448, 416; Mohamed PC 101; Mubanga PC 44; D 150, 153, 160; Deghayes D 161, 167, 175; Begg D 218, 225; Belmar D 197, 202, 209; Mohamed D 123, 155; Mubanga D 79, 98, 101, 125-135).

(h) Oral advice was given to Security Service staff prior to deployment to Guantanamo Bay, including guidance that interviews must be free from pressure or coercion, must not include inhuman or degrading treatment, and that staff should withdraw if they considered the interview regime to be unacceptably harsh or unreasonable. No admissions are made as to whether such advice was given to officers who interrogated the Claimants (Al Rawi D 97; Belmar D 122; Deghayes D 90; Mohamed D 138; Mubanga D 113)

(i) That Security Services officers informed detainees that it would be in their best interests to co-operate with US authorities and / or that the Security Services could / would / might be able to assist them (E.g. Belmar D 35, 87 ; Deghayes D 34, 36, 47, 49; Begg D 39.6-39.8, 61; Mohamed D 46, 49)

#### Legal issues common to all claims

7. The Defendants have raised the following legal issues in respect of each of the Claimants' claims:

(a) Whether the Foreign and Commonwealth Office and the Home Office are vicariously liable for the conduct of the Security Services, their servants or agents (PC 9; Al Rawi D 9; Mohamed PC 4; Mohamed D 6; Mubanga PC 8; Mubanga D 6);

(b) Whether the Claimants' detention at Guantanamo Bay and elsewhere was unlawful. The Defendants have denied that the Claimants' detention was unlawful under the law of England and Wales and aver that the proper law to determine lawfulness is that of the place of alleged detention or other ill treatment and / or that of the United States (Al Rawi D 109-112; Mohamed D 114-117; Mubanga D 72-75). The Claimants aver that such conduct is unlawful under the law of England and Wales and that any other applicable



laws are to be presumed to be to the same effect. For this purpose they rely on the law of all civilised nations and the high status of the prohibitions on arbitrary detention and torture (FI 6-7);

- (c) Whether the effect of the State Immunity Act 1978 is to render the alleged acts of agents of the United States, Zambia, The Gambia, Pakistan, Morocco and / or Afghanistan non-justiciable (D 113; Mohamed D 118; Mubanga D 76-77);
- (d) Whether the tort of torture is known to or should be recognised by English law (PC 388-389; Al Rawi D 137; Mohamed PC 96-98; Mubanga PC 39-40; Mohamed D 120; Mubanga D 115).
- (e) Whether a duty of care was owed by the Defendants to the Claimants, arising out of an assumption of responsibility on the part of the Defendants (PC 406-407, 428-429, 445-446, 463-464; Mohamed PC 105-106; Mubanga PC 33-35; D 151; Deghayes D 163-164; Begg D 215-216; Belmar D 199-200; Mohamed D 160; Mubanga D 99, 121, 124).
- (f) Whether the actions of Security Services officers constituted misfeasance in public office in that they were carried out with the intention of injuring the Claimants or with reckless indifference to the injury that they were suffering as well as to the unlawfulness of their actions (Al Rawi PC 410-416, 432-433 449-450, 467-468; Mohamed PC 108-113; Mubanga PC 31-32; Al Rawi D 156-160; Deghayes D 169-175; Belmar D 204-209; Begg D 165-170; Mohamed D 165-169; Mubanga D 65-97).

#### Specific issues arising in the individual claims

- 8. Attached as Schedules hereto are summaries of the admitted direct contact by British officials with the Claimants whilst they were being unlawfully detained (Schedule A) and the principal factual issues arising in the individual claims before the Court and raised by the individual defences served by the Defendants (Schedules B-G).

**Schedule A – Admitted Attendance of the Security Services at the  
interrogation of the Claimants**

The Defendants admit attending and/or participating in the interrogation of each of the Claimants at Guantanamo Bay and elsewhere. In particular:

1. It is admitted that the Security Services attended and/or participated in the interrogation of Mr Al Rawi on five occasions during his detention at Guantanamo Bay (D 56(1), (3)):

GTMO	Present	D
26 April 2003	9305	56(1)
	3276 (observing)	56(3)
9 Sept 2003	4166 "Alex"	56(1)
3 occasions	4708 "Matt"	56(1)
5-8 February	702 "Martin"	

2. It is admitted that the Security Services attended and/or participated in the interrogation of Mr El Banna on one occasion during his detention at Guantanamo Bay (D 56(2), (3)).

GTMO	Present	D
26 April 2003	9305	56(2)
	3276 (observing)	56(3)

3. It is admitted that the Security Services attended and/or participated in the interrogation of Mr Belmar on three occasions during his detention in Pakistan (Belmar D 29), on seven occasions during his detention in Afghanistan (Belmar D 56), and on five occasions during his detention at Guantanamo Bay (Belmar D 85), as well as there having been five "welfare visits" (Belmar D 74)

Karachi	Present	D
1 March 02	3132 "Andrew" 4708 "Matt"	29
2 March 02	3132 "Andrew" 4708 "Matt"	29
4 March 02	3132 "Andrew" 4708 "Matt"	29
<b>Bagram</b>		
22 June 2002	702 "Martin" 3137 "Paul"	56
24 June 2002	702 "Martin" 3137 "Paul"	56
25 June 2002	702 "Martin" 3137 "Paul"	56
25 June 2002	702 "Martin" 3137 "Paul"	56(1)
4 July 2002	One or more Security Services officers currently unknown	56(2)
10 July 2002	3132 "Andrew"	56(3)
10 July 2002	3132 "Andrew"	56(3)
<b>GTMO</b>		
13/14 Nov 2002	Welfare Visitor 4 Welfare Visitor 3 Unidentified Security Services officers	73
13/14 Nov 2002	3524 "Ian" 3276 "Lucy" Welfare Visitor 3	73, 85(1)
25 April 03	Welfare Visitor 4 Unidentified Security Services officer	74
25 April 03	9305 3276 "Lucy"	85(2)
28 April 03	9305 3276 "Lucy" (observing)	85(3)
9 Sept 03	Welfare Visitor 4 Unidentified Security Services officer	74
10 Sept 03	3276 "Lucy" 4166	85(4)
9 Feb 04	4708 792	85(5)

8 Mar 04	Welfare Visitor 4 US Official	74
16 July 04	Welfare Visitor 4 US official	74
3 Oct 04	Welfare Visitor 4 US official	74

4. It is admitted that the Security Services interrogated Mr Deghayes on one occasion during his detention in Islamabad (Deghayes D 25), on four occasions during his detention in Afghanistan (Deghayes D 39), and on one occasion during his detention at Guantanamo Bay (Deghayes 55).

Islamabad	Present	D
22 May 02	3132 "Andrew" Jointly with foreign Government officials	25
<b>Bagram</b>		
24 June 2002	3137 702	39(1)
3 July 2002	3132 "Jeff"	39(2)
6 July 2002	9164	39(3)
12 July 2002	3132	39(4)
<b>GTMO</b>		
28 April 2003	9305 3276 Foreign government official	55

5. It is admitted that the Security Services interrogated Mr Begg on one occasion during his detention in Pakistan (Begg D 39), on one occasion during his detention in Afghanistan (Begg D 56), and on two occasions at Guantanamo Bay (Begg D 78, 83, 103).

Pakistan	Present	D
5 Feb 02	9030 "Ian" 5066 "Louise" Foreign government officials	39
<b>Kandahar</b>		
10 March 2002	3132 "Andrew" 4708 "Matt"	56

11 March 2002	3132 "Andrew" 4708 "Matt"	58
13 March and possibly others between 10-11 March	Not stated	70
<b>Bagram</b>		
3-11 July	Series of interviews	64, 70
<b>GTMO</b>		
September 2003	Welfare Visitor 4 "Martin"	72
25 April 2003	Welfare Visitor 4 "Martin"	74
25 April 2003	9305 "John" 3276 Lucy" Welfare Visitor 4 "Martin"	78
26 April 2003	9305 "John" 3276 Lucy" Welfare Visitor 4 "Martin"	78
27 April 2003	9305 "John" 3276 Lucy"	78
8 September 2003	Welfare Visitor 4 "Martin"	94.2
9 September 2003	3276 "Lucy" 4166 "Alex"	103
March 2003	Welfare Visitor 4 "Martin"	105
9 February 2004	4798 "Matt" Another Security Services officer (unstated)	109
16 July 2004	Welfare Visitor 4 "Martin"	73, 117
3 October 2004	Welfare Visitor 4 "Martin" US officials	121

6. It is admitted that the Security Services interrogated Mr Mohamed on one occasion during his detention in Pakistan (Mohamed D 41-2), as well as there having been two "welfare visits" (Mohamed D 97-98).

<b>Pakistan</b>	<b>Present</b>	<b>D.</b>
17 May 2002	3132 "John"	43
	Foreign government officials	44
25 July 2008	Welfare Officer 5 Welfare Officer 6	97
14 February 2009	Welfare Officer 7	98

	Welfare Officer 8	
	Welfare Officer 9	

7. It is admitted that the Security Services interrogated Mr Mubanga on two occasions during his detention in Zambia (Mubanga D 27), and on seven occasions during his detention at Guantanamo Bay (Mubanga D 37), as well as there having been seven "welfare visits" (Mubanga D 43, 46, 123).

Zambia	Present	D
23 March 2002	233 "Tony"	27, 62
	Jointly with foreign government officials	29
24 March 2002	233 "Tony"	27, 30-31, 62
	Jointly with foreign government officials	29
GTMO		
30 May 2002	Welfare Visitor 3	43, 44
	9032	37(1)
	4166	
31 May 2002	9032 "Mark"	37(2)
	Jointly with US official	
2 June 2002	9032 "Mark"	37(2)
	Jointly with US official	
13 November 2002	Welfare Visitor 3	43, 45
	3276	37(3), 39
	3524	
25 April 2003	Welfare Officer 4	46, 47
	Unidentified Security Services officer	
26 April 2003	9305 "John"	37(4)
	Observed by 3276	
9 September 2003	Welfare Officer 4	46, 48
	Unidentified Security Services officer	
11 September 2003	3276	37(5)
	4166	
12 September 2003	3276	37(5)
	4166	
8 March 2004	Welfare Officer 4	46, 49
	US official	
16 July 2004	Welfare Officer 4	46, 50
	US official	
3 October 2004	Welfare Officer 4	46, 52

## **Schedule B - Bisher Al Rawi and Jamil El Banna**

By a combination of non-admissions and denials the Defendants have raised issues in respect of the following matters in their defence to Mr Al Rawi and Mr El Banna's claims:

1. The precise nature of Mr Al Rawi's relationship with the Security Services prior to his detention (PC 18-21; Al Rawi D 22). The Defendants have, in particular, made no admissions as to Mr Al Rawi's assertion that he met with Mr Abu Qatada at the request of the Security Services and the specific assurances of protection which Mr Al Rawi alleges he received from Security Services officers and a Security Services lawyer (PC 21.4; Al Rawi D 22);
2. The precise nature of Mr El Banna's relationship with the Security Services prior to his detention. The Defendants have denied that they sought to recruit Mr El Banna at a meeting at his home on 31<sup>st</sup> October 2002 or anything in the nature of an assurance was made to Mr El Banna, (PC 25-29; Al Rawi D 23-25). The nature of any assurance given to Mr El Banna by the Security Services (Al Rawi D 148, 151);
3. The circumstances in which one of Mr Al Rawi and Mr El Banna's travelling companions came not to travel and the precise nature of exchanges which took place between him and United Kingdom officials prior to his taking this decision. The Defendants have made no admissions in this regard (PC 39; Al Rawi D32);
4. The correct inference to draw from the telegram sent by the Security Services to United States authorities on 1 November 2002 and whether the same contained false and misleading statements in respect of Mr Al Rawi and Mr El Banna as alleged by them but denied by the Defendants (PC 42-43; Al Rawi D 36);
5. Whether the subsequent telegrams sent by the Security Services to United States authorities were similarly false and misleading (as alleged by them but

denied by the Defendants) and whether and when the Security Services informed United States authorities that the item referred to in their telegram of 1 November 2002 could "*no longer be considered to be suspicious*" (PC 44-49; D 38-41);

6. Whether the Security Services directly facilitated the original detention of Mr Al Rawi and Mr El Banna by providing United States agencies with information about their travel itineraries or alternatively were reckless or negligent in respect thereof (PC 41-45, 47, 48, 81, 382; Al Rawi D 34-3, 46, 61, 115, 124(10)). (PC 41, 55-58, 80.1(h); D 30(5), 45, 60(3), 66).
7. Whether the Security Services and United States authorities discussed the possibility of the Foreign and Commonwealth Office providing some form of consular protection to Mr Al Rawi and Mr El Banna. This alleged by the Claimants to be the natural inference of the telegram of 8 November 2002 and 6 December 2002 but is denied by the Defendants (PC 50; Al Rawi D 42);
8. The precise nature of Mr Al Rawi and Mr El Banna's treatment in The Gambia. The Defendants deny that either man was mistreated in The Gambia (PC 51-58; Al Rawi D 43-44);
9. Whether the rendition Mr Al Rawi and Mr El Banna to Afghanistan was in any way connected to the arrest and detention in the United Kingdom of Abu Qatada (PC 64; Al Rawi D 50);
10. Whether, when and in what terms the Security Services informed United States authorities of the nature of their relationship with Mr Al Rawi (PC 57; Al Rawi D 47);
11. The precise circumstances of Mr Al Rawi's and Mr El Banna's rendition to Afghanistan, and the nature of their treatment while detained there. The Defendants make no positive case in this regard but do not admit the Claimants' allegations (PC 60-71; Al Rawi D 50);



12. The precise circumstances of Mr Al Rawi's and Mr El Banna's rendition to Guantanamo Bay, and the nature of their treatment while detained there. Again the Defendants make no positive case in this regard but do not admit the Claimants' allegations (PC 72-76; Al Rawi D 51).
13. In respect of the alleged facilitation and participation in the interrogation of Mr Al Rawi and Mr El Banna by the Security Services:
- (a) The extent of any indirect involvement in the interrogation of either man by other government authorities in The Gambia or Afghanistan or GTMO by e.g. the provision of questions. (The Defendants' denial is limited to a denial of any "contact" with either man during their detention in Afghanistan) (PC 79.1 – 79.2; Al Rawi D 55(1));
  - (b) The precise circumstances of the interrogation of Mr Al Rawi and Mr El Banna by British authorities at GTMO (PC 79-81, 388-395, D 53, 55-60, 137-147)
  - (c) Whether during the course of one such interrogation two Security Service Officers ('Martin' and 'Matt') promised to secure Mr Al Rawi's release within a "few months" if he agreed to work for them on release. (PC 80.3; D 59).
14. The degree to which UK authorities were aware of the unlawful nature of the detention of Mr Al Rawi and Mr El Banna and of their mistreatment (PC 354-381; 386-7, 394; Al Rawi D 53, 125-126, 140-144, 86-108)
15. Whether and when the Security Services first informed Ministers about the full factual background to Mr Al Rawi's case and, in particular, the nature of his relationship with the Security Services and whether an unacceptable level of delay occurred (PC 113; 385.12; Al Rawi D 81, 124(12)).
16. Whether UK authorities failed to take reasonable and appropriate steps to secure the release of the men including by providing evidence to the US

authorities of the previous contact between the men and the Security Service, by providing information to the Combatant Status Review Tribunals as requested by Mr Al Rawi and by the Security Services providing appropriate information to Ministers and other officials (PC 84-86, 83-86, 88-90, 96-97, 99, 113, 385, 397; Al Rawi D 63, 66, 70, 81, 124, 147)

17. Whether the wrongful conduct of British authorities caused harm to the men, and whether had such wrongful conduct not occurred, the men would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release (PC 385.12, 405, 409, 416, 469-480; Al Rawi D 124(12), 150, 154, 160, 165, 166, 167, 168).

### Schedule C - Richard Belmar

By a combination of non-admissions and denials the Defendants have raised issues in respect of the following matters in their defence to Mr Belmar's claims:

1. The reason for Mr Belmar's travels to Pakistan and Afghanistan from about June 2001 and the nature of his activities in those countries until his arrest in Pakistan on or about 7 February 2002 (PC 120-129; Belmar D 23).
2. The precise nature of the interrogation and treatment of Mr Belmar in Pakistan (PC 130-134; D 27-43). In particular, in respect of the interrogation of Mr Belmar by members of the Security Services in Pakistan:
  - (a) The frequency and number of such interrogations (PC 134.1; Belmar D 32);
  - (b) What was said to Mr Belmar by British officials and in particular the nature of assurances and/or promises made to Mr Belmar in the course of the interrogations by Security Services officers (PC 134.4, 134.5, 134.13; Belmar D 34, 35, 42) and the nature of threats made to Mr Belmar that he would be taken to Jordan or Egypt if he did not co-operate (which is not admitted but not denied) (PC 134.10-14, D 41).
  - (c) The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar (PC 421.1, 421.4, 422, 429.3, 432, D 162-168, 200, 205, 208).
3. Whether the level of assistance afforded by the Defendants to Mr Belmar during his detention in Pakistan constituted an effective 'abandonment' of Mr Belmar, which exposed him to arbitrary detention and mistreatment amounting to torture, and was unlawful (PC 135, Belmar D 44).

4. Whether Mr Belmar had been assessed by the FBI to be suitable for release, and whether this assessment was overruled by the Security Services (PC 134.6, 136-137; Belmar D 36, 45-47).
5. The precise circumstances of Mr Belmar's rendition to Afghanistan and the nature of his treatment while detained there. Mr Belmar's allegations in this regard are not admitted by the Defendants (PC 139-155; Belmar D 49-54).
6. The precise nature of the Security Services' interrogations of Mr Belmar at Bagram (PC 157; Belmar D 56-68).
7. The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar in Afghanistan (PC 421.2, 421.4, 422, 429.3, 432, D 169-176, 200, 204, 208).
8. The precise circumstances of Mr Belmar's rendition to Guantanamo Bay, the nature of his treatment while detained there, and the nature of his relationship with representatives of the Foreign Office while detained there (PC 158-169; Belmar D 69-84).
9. The precise nature of Mr Belmar's interrogations by the Security Services while detained in Guantanamo Bay and whether he was given an assurance by them (PC 170; Belmar D 85-89).
10. The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar in Afghanistan (PC 354-381, 421.3, 421.4, 422, 429.3, 432, D 71, 111-133, 177-183, 200, 204, 208).
11. Whether the Security Services deliberately intervened to frustrate the release of Mr Belmar from Guantanamo Bay and deliberately or negligently represented that evidence relied upon by US was reliable, adequate and adequate and / or UK authorities failed themselves to take steps to assist Mr Belmar (PC 173; Belmar D 91, 201, 426, 430, 432).

12. The nature of Mr Belmar's hearing before the CSRT and whether the US authorities were relying on material supplied by the Security Services (PC 174-180; Belmar D 92-98).
13. Whether any binding contract was entered into between Mr Belmar and the Security Services; if so, whether the Security Services breached this contract; and if so, whether these breaches of contract caused Mr Belmar to be detained for a longer period of time than he would otherwise have been (PC 424-427; Belmar D 186-198).
14. Whether the wrongful conduct of British authorities caused harm to Mr Belmar, and whether had such wrongful conduct not occurred, Mr Belmar would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release (PC 427, 431, 432-3, 469-480; Belmar D 197, 198, 202, 209, 211-212, 211-216).

### Schedule D – Omar Deghayes

By a combination of non-admissions and denials the Defendants have raised issues in respect of the following matters in their defence to Mr. Deghayes' claims:

1. The precise circumstances of the arrest of Mr Deghayes in Pakistan, and his treatment while detained there (PC 192-193, 195-196; Deghayes D 23-24, 29).
2. The precise circumstances and nature of the interrogation of Mr Deghayes by the Security Services during his detention in Pakistan (PC 194, 197-206; Deghayes D 25-28, 30-37).
3. The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar in Pakistan (PC 354-381, 438, 446; Deghayes D 79-101, 140-149, 166, 169).
4. The precise circumstances of Mr Deghayes' rendition to Afghanistan, and the nature of his treatment while detained there. The Defendants make no positive case in this regard but do not admit the Claimants' allegations (PC 207-210; Deghayes D 38).
5. The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Deghayes in Afghanistan (PC 354-381, 438, 446, 449; Deghayes D 79-101, 140-149, 166, 169)
6. The precise circumstances of Mr Deghayes' interrogation by the Security Services while detained in Afghanistan (PC 211-219; Deghayes D 39-51).
7. The degree to which the detention and interrogation of Mr Deghayes by other agencies in Pakistan and Afghanistan was based on material supplied by the Security Services wrongfully and / or without adequate assurances (PC 198, 435, 438, 446, 449; Deghayes D 19, 31)

8. The precise circumstances of Mr Deghayes' rendition to Guantanamo Bay and the nature of his treatment while detained there. Save that it is denied that Mr Deghayes' eye was injured at Guantanamo Bay, the Defendants make no positive case in this regard, but do not admit the Claimants' allegations (PC 220-223; Deghayes D 52-54).
9. In respect of Mr Deghayes' interrogation while detained at Guantanamo Bay:
  - (a) The number of occasions on which Mr Deghayes was interrogated by the Security Services while detained at Guantanamo Bay, and the nature of such interrogations; (PC 224; Deghayes D 55-57).
  - (b) Whether and to what extent the Security Services provided information to the United States and / or Libyan authorities, wrongfully and / or without adequate assurances, that was used in connection with interrogations of Mr Deghayes by those authorities and as a basis for detaining him (PC 225-228, 435; Deghayes D 58-61, 118).
  - (c) The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and the mistreatment of Mr Deghayes (PC 216, 354-381, 436, 438, 446, 449; Deghayes D 41, 45-49, 79-101, 126, 166, 169).
10. Whether, the US authorities relied upon a video tape passed to them by or at the instigation of the Security Services and failed to provide information to the US authorities which was capable of undermining the alleged connection between Mr Deghayes and persons portrayed in the video (PC 230; Deghayes D 62, 120, 435).
11. Whether there was any failure on the part of the Security Services to provide the Foreign Office and/or the Home Office with relevant and accurate information relating to the detention and interrogation of Mr Deghayes, and/or whether the Foreign Office and/or Home Office failed to take any adequate

steps to investigate such matters (PC 240, 243, 443, 445-447; Deghayes D 72, 78, 151-162).

12. Whether British authorities failed to take other reasonable steps to assist Mr Deghayes (PC 435, 443 Deghayes D 151-162, 163-166).
13. Whether any binding contract was entered into between Mr Deghayes and the Security Services; if so, whether the Security Services breached this contract; and if so, whether these breaches of contract caused Mr Deghayes to be detained for a longer period of time than he would otherwise have been (PC 441-444; Deghayes D 151-162).
14. Whether the wrongful conduct of British authorities caused harm to Mr Deghayes, and whether had such wrongful conduct not occurred, Mr Deghayes would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release (PC 439, 444, 448, 449-450, 469-480; Deghayes D 149, 162, 167, 175, 176-180).



### Schedule E – Moazzem Begg

By a combination of non-admissions and denials the Defendants have raised issues in respect of the following matters in their defence to Mr Begg's claims:

1. The precise nature of Mr Begg's involvement with training camps in Afghanistan between about 1993 and 1998 (PC 245-247; Begg D 21-23).
2. Whether and to what extent the Security Services participated in and/or facilitated the original detention of Mr Begg in Islamabad in about February 2002 (PC 267; Begg D 35-36).
3. The nature of Mr Begg's treatment during his detention in Pakistan. (PC 268-275; Begg D 38).
4. The precise circumstances relating to Mr Begg's interrogation in Pakistan by the Security Services, and in particular, (a) whether Mr Begg was threatened in the manner pleaded in PC 276.7 (Begg D 39.6); whether any assurances were made to Mr Begg in the form pleaded in PC 276.9 (Begg D 39.8).
5. Whether the level of assistance afforded by the Defendants to Mr Begg during his detention in Pakistan constituted an effective 'abandonment' of him, which exposed him to arbitrary detention and mistreatment amounting to torture, and was unlawful (PC 279; Begg D 42).
6. The precise circumstances of Mr Begg's rendition to Afghanistan and the nature of his treatment while detained there (PC 282-290; Begg D 46-54).
7. The precise circumstances of Mr Begg's interrogation by the Security Services in Afghanistan, including in particular (a) the nature of the complaints made by Mr Begg to the Security Services about the treatment he had received in Afghanistan, and (b) whether Mr Begg alleged on one or more occasions that he had been tortured (PC 291-297; Begg D 55-70).

8. The precise circumstances of Mr Begg's rendition to Guantanamo Bay, and the nature of his treatment while detained there (PC 298-303; Begg D 71-77).
9. With regard to the role of the Defendants in Mr Begg's detention at Guantanamo Bay:
  - (a) The precise circumstances of the meetings between Mr Begg and members of the Security Services and Foreign Office, and in particular the nature of the complaints made by Mr Begg during such meetings (PC 304, 309-313, 317, 324, 460; Begg D 78-88, 93-105, 109-113, 121-125, 213).
  - (b) Whether the intended prosecution of Mr Begg by the United States authorities was supported by the Foreign Office (PC 306; Begg D 90).
  - (c) Whether Security Services intervened to frustrate release of Mr Begg (PC 316; Begg D 108).
  - (d) Whether and to what extent the Security Services collaborated with the United States authorities in relation to the interrogations of Mr Begg, by requesting or instigating such interrogations, and/or by supplying information upon which such interrogations were based (PC 331-334; Begg D 133-136).
10. The degree to which the British authorities knew or ought to have known of the unlawful nature and of the detention of Mr Begg and of the mistreatment of him (PC 354-81, 413-415, 457; Begg D 156-178, 192, 221-224)
11. Whether the British authorities by their acts of omissions were complicit in the continuing detention of Mr Begg, and whether they took reasonable steps to secure his release (PC 306-307, 316, 455, 458-460, 463, 465; Begg D 90-91, 108, 190, 213, 217)

12. Whether the wrongful conduct of British authorities caused harm to Mr Begg, and whether had such wrongful conduct not occurred, Mr Begg would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release (Mohamed PC 114-116; Mohamed D 172).

### Schedule F – Binyam Mohamed

By a combination of non-admissions and denials the Defendants have raised issues in respect of the following matters in their defence to Mr Mohammed's claims:

1. The nature and purpose of Mr Mohamed's activities in Pakistan and Afghanistan prior to his detention on 3 April 2002, and the reason for his travels (Mohamed PC 12-13; Mohamed D 21).
2. The precise circumstances of Mr Mohamed's original detention in Pakistan, the nature of his treatment while detained there, and whether such detention was unlawful (Mohamed PC 14-22; Mohamed D 22-28).
3. Whether and to what extent the Security Services knew about the conditions in which Mr Mohamed was being held and the mistreatment suffered by Mr Mohamed during his detention in Pakistan (Mohamed PC 26-27, 31, 34, 47.1-47.2; Mohamed D 27, 33-34, 38, 43-44, 54).
4. The precise circumstances relating to Mr Mohamed's interrogation in Pakistan by the Security Services, and in particular, (a) whether Mr Mohamed was threatened in the manner pleaded in Mohamed PC 36-37, 40, 47.3 (Mohamed D 45, 48, 53); and (b) whether Mr Mohamed asked to see a lawyer, Mohamed PC 39 (Mohamed D 47).
5. The precise circumstances of Mr Mohamed's rendition to Morocco, the lawfulness of his rendition and subsequent detention and the nature of his treatment while detained there. The Defendants make no positive case in this regard, but do not admit Mr Mohamed's allegations (Mohamed PC 48-51; Mohamed D 59).
6. With regard to the involvement of the Security Services in the interrogation of Mr Mohamed in Morocco:

- (a) Whether and to what extent the Security Services knew about Mr Mohamed's detention in Morocco (Mohamed PC 54; Mohamed D 61), the mistreatment suffered by Mr Mohamed during his detention and in particular whether the Security Service knew or suspected that Mr Mohamed was being tortured or that there was a risk that he would be tortured (Mohamed PC 55, 59, 71.1; Mohamed D 62, 66-67, 81).
- (b) The precise nature of the Security Services' participation in and/or facilitation of the interrogation of Mr Mohamed (Mohamed PC 65-70, 71.2-71.5; Mohamed D 71-80, 83-84).
7. The precise circumstances of Mr Mohamed's rendition to and detention in Afghanistan, the lawfulness of these actions and the nature of Mr Mohamed's treatment while detained there, including whether and to what extent the interrogations of Mr Mohamed during his detention in Afghanistan were based on information and questions supplied to the United States authorities by the Security Services (Mohamed PC 47.7, 72-78; Mohamed D 58, 87-89).
8. Whether and to what extent the interrogations of Mr Mohamed during his detention at Guantanamo Bay were based on information and question supplied to the United States authorities by the Security Services (Mohamed PC 80; Mohamed D 91).
9. Whether the wrongful conduct of British authorities caused harm to Mr Mohamed, and whether had such wrongful conduct not occurred, Mr Mohamed would have been released at any earlier stage than in fact occurred or whether he lost the chance of such release (eg. Mohamed PC 82-83, 101; Mohamed D 98, 101).

### Schedule G – Martin Mubanga

By a combination of non-admissions and denials the Defendants have raised issues in respect of the following matters in their defence to Mr Mubanga's claims:

1. The nature and purpose of Mr Mubanga's activities in Pakistan and Afghanistan between October 2000 and February 2002 and the reasons for his travels (Mubanga PC 10-14; Mubanga D 18-22).
2. The precise circumstances of Mr Mubanga's original detention in Zambia, the lawfulness of that detention and the nature of Mr Mubanga's treatment while in detention (Mubanga PC 15-17; Mubanga D 23-25, 78-85).
3. The precise circumstances of the interrogations of Mr Mubanga in Zambia, in particular by the Security Services (Mubanga PC 17-21; Mubanga D 26-33).
4. The precise circumstances of Mr Mubanga's rendition to Guantanamo Bay and the nature of his treatment while detained there. The Defendants do not make any positive case in this regard but broadly do not admit Mr Mubanga's allegations (Mubanga PC 22-24; Mubanga D 34-35).
5. The precise circumstances of Mr Mubanga's interrogations both by US officials and by the Security Service (Mubanga PC 25-26; Mubanga D 36-54).
6. Whether the wrongful conduct of British authorities caused harm to Mr Mubanga, and whether had such wrongful conduct not occurred, Mr Mubanga would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release (eg. Mubanga PC 44; Mubanga D 124-125).

Birnberg Peirce  
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Christian Khan  
DX 35737 Bloomsbury

Leigh Day & Co  
DX 53326 Clerkenwell

By email and DX

23 December 2009

Dear Sirs

Bisher al Rawi and others v Security Service and others  
Martin Mubanga v Security Service and others  
Binyam Mohamed v Security Service and others

Dear Sirs,

List of issues

Please find herewith the Defendants' preliminary comments on the Claimants' list of issues. Bearing in mind the observations of Mr Justice Silber at the CMC on 14 December 2009, that the Defendants' comments should represent annotations on the Claimants' draft, you will find herewith:

1. A general section, covering the legal issues, agreed facts and general factual matters in issue applicable to all claims, where the Defendants' comments appear in 'tracked changes' form;
2. Schedule A, covering the agreed attendances by the Security Service at interviews of the Claimants and visits by FCO Welfare Visitors, where again the Defendants' comments appear in 'tracked changes' form;
3. Schedules B – G, dealing with the matters in issue for the individual Claimants, where the Defendants have created a table and put their suggested alternative wording in the right hand column of the table, against the Claimants' wording in the left hand column.

I trust that the format of the attachments makes clear where there are matters between the parties in terms of what the issue actually is and/or how the issues have been drafted by the Claimants. There are also a number of instances where the Defendants have raised issues that the Claimants' draft did not raise (for example. Remedies in each of Schedules B – G).

David Dunleavy – Head of Division  
David Mackie – Team Leader

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Your Reference:

It may be helpful to make a few observations about the Defendants' general approach.

Firstly, we would remind you of paragraph 3 of the Open Defences served on you, and the caveat set out therein that, to avoid real harm to the public interest, a further Defence pleads more fully to the Particulars of Claim. The annotations set out in the attached document, commenting on your list of issues, are necessarily based entirely on the Open Defences, but this is without prejudice to any material contained in the further Defences.

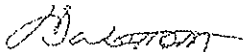
Secondly, the Defendants take the view that matters are in issue whether they have been not admitted, denied, or averred in the Open Defences - they are matters in issue as the Claimants' case is not accepted. The Defendants' comments seek to remove the distinctions made in the Claimants' draft in this regard.

Thirdly, it is obvious that the Claimants' Replies may have a considerable impact on the number and range of the matters in issue. For example, some matters have been averred in the Open Defences and the Defendants do not yet know whether they or any of them will be disputed. For present purposes, the Defendants have assumed that most such matters are in issue.

Finally, the Defendants regard their comments at this stage as a preliminary set of observations on the Claimants' draft, and once you have had the opportunity to consider and respond to the Defendants' comments, we expect that the draft will come back to the Defendants for further consideration in the light of your responses. For the reasons I have mentioned, it may be best for this to follow service of the Replies.

I look forward to hearing from you with your further comments.

Yours faithfully



Joanna Bateman  
For the Treasury Solicitor



IN HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION

Claim Nos. HQ08X01180  
HQ08X01413  
HQ08X01416  
HQ08X03220  
HQ08X01686

BETWEEN

- (1) BISHAR AL RAWI
- (2) JAMIL EL BANNA
- (3) RICHARD BELMAR
- (4) OMAR DEGHAYES
- (5) MOAZZEM BEGG
- (6) BINYAM MOHAMED
- (7) MARTIN MUBANGA

Claimants

- and -

- (1) THE SECURITY SERVICE
- (2) THE SECRET INTELLIGENCE SERVICE
- (3) THE ATTORNEY-GENERAL
- (4) THE FOREIGN AND COMMONWEALTH OFFICE
- (5) THE HOME OFFICE

Defendants

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AGREED LIST OF ISSUES

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PROVISIONAL STATEMENT

Introduction

1. The Claimants are former detainees of the United States detention facility at Guantanamo Bay, Cuba. Prior to their arrival at Guantanamo Bay they were detained at various locations including Zambia, The Gambia, Morocco, Pakistan and Afghanistan. They allege that their detention was at all times unlawful and that they were each the victims of extraordinary rendition, torture and inhuman and degrading treatment. They further allege that the Defendants are liable to them in damages at common law and (so far as the first

two Claimants are concerned) under the Human Rights Act 1998 in respect of their unlawful detention and ill-treatment. Their claims are summarised at paragraphs 11 to 15 of the Particulars of Claim served on behalf of the First to Fifth Claimants, paragraphs 5-7 of the Particulars of Claim served on behalf of the Sixth Claimant and paragraphs 1-3 of the Particulars of Claim served on behalf of the Seventh Claimant. The Claimants' common law claims are based on false imprisonment, trespass to the person, conspiracy, torture, breach of contract, negligence and misfeasance in public office.

2. The Defendants deny any liability to any of the Claimants.

#### Legal issues common to all claims<sup>1</sup>

3. Whether the Foreign and Commonwealth Office and the Home Office are vicariously liable for the conduct of the security and intelligence services, their servants or agents, or whether the appropriate defendant in respect of the security and intelligence services is the Attorney General.
4. Whether the applicable law in respect of the Claimants' allegations of false imprisonment, trespass to the person, conspiracy to use unlawful means, conspiracy to injure and the alleged tort of torture is the law of England and Wales, or the law of the place where the matters relied on allegedly occurred or the civil or military laws of the United States, with relevant modification in so far as such laws are modified in their application to the US military bases at Bagram and Guantanamo Bay.
5. Whether the effect of the State Immunity Act 1978 is to render the alleged acts of agents of the United States, Zambia, The Gambia, Pakistan, Morocco and / or Afghanistan non-justiciable before an English court.
6. Whether any secondary, accessory or joint liability can arise in circumstances where the actions or omissions of the alleged primary or principal tortfeasor are not justiciable.

The legal section has been brought forward as the legal issues are logically prior to the factual issues.

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(b)

Deleted: Whether the Claimants' detention at Guantanamo Bay and elsewhere was unlawful. The Defendants have denied that the Claimants' detention was unlawful under the law of England and Wales and aver that the proper law to determine lawfulness is that of the place of alleged detention or other ill treatment and / or that of the United States (Al Rawi D 109-112; Mohamed D 114-117; Mubanga D 72-75). The Claimants aver that such conduct is unlawful under the law of England and Wales and that any other applicable laws are to be presumed to be to the same effect. For this purpose they rely on the law of all civilised nations and the high status of the prohibitions on arbitrary detention and torture (P1 6-7).

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7. Whether conspiracy to use unlawful means and conspiracy to injure are economic torts and, if so, whether the Claimants' claims under these heads are bad in law.

8. Whether the tort of torture is known to or should be recognised by English law, and if so, what are its constituent elements.

9. Whether a duty of care was owed by the Defendants to the Claimants, arising out of an assumption of responsibility on the part of the Defendants, and if so, what standard of care applied.

10. Whether the claim that the security and intelligence services, rather than any identified individuals, committed misfeasance in public office is bad in law.

Agreed factual background common to all claims

11. On 11 September 2001, Islamist extremist terrorists from the Al Qaeda terrorist organisation attacked New York, Washington D.C. and Pennsylvania in the United States of America, killing 2,974 people, including 67 Britons ("9/11").

12. In terms of the number of casualties, 9/11 was the world's worst act of terrorism and the deadliest in terms of British deaths.

13. It was apparent following 9/11 that the UK, US and other nations faced a very significant terrorist threat from Al Qaeda. The Defendants feared that other terrorist attacks of similar, or possibly even greater, magnitude were being planned and even that they were near completion.

14. The Security Service is and was at all material times under a statutory duty to protect the UK's national security and, in particular, to protect the UK from terrorism.

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Deleted: actions of Security Services officers constituted misfeasance in public office in that they were carried out with the intention of injuring the Claimants or with reckless indifference. (1)

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15. It is and was at all material times the statutory duty of the Secret Intelligence Service ("SIS") to provide information relating to the actions or intentions of persons outside the UK, in the interests of national security.

16. From 7 October 2001, a coalition of States, including the US, the UK and Canada, together with the Afghan Northern Alliance, initiated military action in Afghanistan to remove the Taliban from power in order to disrupt the use of Afghanistan as a terrorist base of operations.

17. The Security Service interviewed a number of detainees who had been detained in Afghanistan and Pakistan and in other countries as a result of counter-terrorist efforts following 9/11, and they provided questions to put to detainees who were being interviewed by others. The Security Service undertook this role because, as the UK agency with the most experience of running intelligence led counter-terrorist investigations in the UK, it was best placed to understand and utilize the information received about threats against the UK, or involving British nationals. At times these interviews were facilitated by officers of SIS and on occasion SIS officers conducted interviews themselves.

18. The Claimants were each detained for the following periods:  
8/11/02-30/3/07,

Mr Al Rawi

Mr El Banna 8/11/02-19/12/07,

Mr Deghayes 1/4/02-20/12/07,

Mr Belmar 7/2/02-25/1/05,

Mr Begg 1/2/02-25/1/05,

Mr Mohamed 10/04/02-23/02/09,

Mr Mubanga 13/03/02-24/01/05,

19. The Security Service interviewed each of the Claimants. During some of these interviews, foreign government officials were present. The dates on which the Claimants were

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Deleted: The following elements of the factual background to the Claimants' claims are not in dispute.

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Deleted: (PC 4: Begg D 5);

Deleted: (Mohamed PC 14: Mohamed D 4, 22)

Deleted: (Mubanga PC 16, 22, Mubanga D 24, 37, 55, 134).

Deleted: (h) The First and Second Defendants ("the Security Services") were deployed to the detention facilities in Pakistan, Morocco, Zambia, Afghanistan and Guantanamo Bay and participated in, and facilitated, the interrogation of detainees held at these locations by the provision of questions to those carrying out interrogation or by themselves questioning the detainees held there and benefited from the product of these interrogations. This participation included participation in the interrogation of each of the Claimants and included interrogations conducted "jointly" with foreign government officials. A schedule (Schedule A) setting out the admitted attendance of the Security Services at the interrogation of the Claimants is annexed hereto;

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interviewed by Security Service officers are set out in Schedule A.

20. Welfare Visitors from the Foreign and Commonwealth Office visited Messrs Belmar, Begg, Mohamed and Mubanga whilst they were detained at Guantanamo Bay, as set out in Schedule A.

21. Concerns in relation to detainee treatment were identified by officers of the security and intelligence services, during January 2002 to July 2002, as set out in the Open Defences.

22. The Security Service determined that they should suspend their involvement in interviews at Guantanamo Bay in February 2004.

23. On 8 January 2004, the Prime Minister, through his Foreign Policy Adviser, requested the return of all nine British national detainees held in Guantanamo Bay, including Messrs Begg, Belmar and Mubanga. HM Government secured the release and return to the UK on 9 March 2004 of five British national detainees. The release and return to the UK on 25 January 2005 of the remaining four British national detainees, including Messrs Begg, Belmar and Mubanga, was also secured by HM Government.

24. In 2006, HM Government requested the release of Mr Al Rawi, which was secured when he was released on 30 March 2007 and returned to the UK.

25. On 7 August 2007 the Foreign Secretary made formal representations to the United States seeking the release of five UK residents or former UK residents, including Messrs Deghaves, El Banna and Mohamed. Messrs Deghaves and El Banna were released on 19 December 2007 and returned to the UK. Mr Mohamed was released and returned to the UK on 23 February 2009.

[Al Rawi (D 89, 95-96, 102-103, Belmar (D 114, 120-121, 127(5) and (6), 128, Deghaves (D 82, 88-89, 95(5) and (6),

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(c) There is now a significant body of material in the public domain indicating that detainees held in Pakistan, Morocco, Afghanistan and Guantanamo in the period 2001 to 2008 in relation to alleged suspicions of involvement in terrorism were subjected to systematic abuse amounting to torture and inhuman and degrading treatment (PC Schedule); ¶

(d) : Serious

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Factual issues common to all claims

26. Whether at all material times the Security Service acted in the proper discharge of its statutory functions to protect and safeguard national security and protect the United Kingdom from terrorism;
27. Whether at all material times SIS acted in the proper discharge of its statutory function to provide information relating to the actions or intentions of persons outside the UK, in the interests of national security.
28. Whether, in order to counter the terrorist threat presented by Al Qaeda and protect the UK's national security, it was vital for the security and intelligence services to acquire intelligence regarding Al Qaeda's plans and operations.
29. Whether interviewing and posing questions to detainees was often the only way, and constituted by far the most effective way, of gaining intelligence about Al Qaeda's plans to undertake terrorist attacks in the UK and other countries.
30. Whether the intelligence received from such interviews was crucial to the work of the Security Service in disrupting a number of terrorist plots to cause mass casualties in the UK and other countries.
31. Whether the Foreign Secretary approved the deployment of SIS officers to Afghanistan, to support the US-led military and covert action, on 28 September 2001.
32. Whether and when the Foreign Secretary was aware of the deployment of security and intelligence service officers to Afghanistan.
33. Whether the Home Secretary was told informally of the deployment of Security Service

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officers to Afghanistan in or about December 2001 January 2002, prior to the deployment taking place in January 2002, and whether the Home Secretary and Home Office officials were specifically informed of the deployment on 28 January 2002.

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34. Whether any written or oral guidance was given to officers of the security and intelligence services who would be conducting interviews of detainees held at Guantanamo Bay;

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35. Whether such guidance included guidance that interviews must be free from pressure or coercion, must not include inhuman or degrading treatment, and that staff should withdraw if they considered the interview regime to be unacceptably harsh or unreasonable.

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36. Whether the written Guidance issued to staff of the security and intelligence services on 11.1.02 was adequate and/or correct in law.

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37. Whether the Defendants were aware, or ought to have been aware, of any engagement by the United States in extraordinary rendition and/or any deployment by the United States of interrogation methods which failed to respect the Geneva Conventions and which constituted inhuman or degrading treatment and torture.

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38. Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions and/or mistreatment allegedly suffered by any of the Claimants.

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39. Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as, for example, is alleged at Paragraph 380 of the Particulars of Claim pertaining to the first five Claimants.

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40. Whether the Claimants suffered trespass to the person, torture or inhuman and degrading treatment during their detention and;

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- a. if so, in which location;
- b. if so, by whom was the Claimant so treated;
- c. if so, whether any of the Defendants were joint tortfeasors, and, if so, how.

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Deleted: (b) The Claimants' allegations that their detention and rendition was unlawful (PC 72-78, 146-50; Mohamed PC 6, 17, 50-51, 73-75; Mubanga PC 28-29, D 51-53; Mohamed D 58, 158-159; Mubanga D 81-82);

Deleted: (c) The Claimants' allegation that no Cabinet Office or other Ministerial approval was sought for the Security Services' involvement in interrogations at Guantanamo Bay until March 2002 (PC 360; Al Rawi D 92-93);

Deleted: (d) The Claimants' allegation that no written guidance was ever in place in relation to interrogation of detainees in (8);

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41. Whether the detention and/or transfer of the Claimants was unlawful and:

- a. if so, by whom the Claimants were detained; and
- b. if so, whether any of the Defendants were involved in the detention, or any part thereof, of any of the Claimants, and if so how.

42. Whether officers of the security and intelligence services falsely imprisoned or committed any act of trespass against the Claimants.

43. Whether the security and intelligence services at any point acted in furtherance of a joint enterprise, in concert or combination with the United States or others to do any unlawful act with intent to injure the Claimants or with that as their predominant purpose or whether they were at any point recklessly indifferent as to the Claimants' fate.

44. Whether any of the Defendants committed the alleged tort of torture.



45. Whether any of the Defendants were in breach of any duty of care owed to the Claimants in the tort of negligence.

46. Whether the actions of any individual officers of the security and intelligence services did not constitute misfeasance in public office because (1) they were at all times acting in the exercise of their statutory functions; (2) the part played by the officers of the security and intelligence service was not unlawful; (3) they did not intend to injure any of the Claimants; (4) they were not aware that they were acting unlawfully and (5) they were not reckless as to whether they were doing so.

47. Whether Security Service officers informed detainees that it would be in their best interests to co-operate with US authorities and / or that the Security Service could / would / might be able to assist them.

48. Whether any act or omission on the part of the Defendants caused any of the Claimants to be detained any longer than they otherwise would have been or to be treated any differently than they otherwise would have been.

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(d) That none of the Defendants were in breach of any duty arising out of the alleged tort of torture (PC 391-398, 420-423, 437-440, 458-462; Mohamed PC 99-104; Mubanga PC 42-43; Al-Rawi D 138-142; Belmar D 159-185; Deghuyes D 138-150, Begg D 213-214; Mohamed D 122-146; Mubanga D 117-123, 143-146);

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19 Specific issues arising in the individual claims Attached as Schedules B - G are the  
lists of disputed issues arising in the individual claims before the Court.

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of the admitted direct contact by  
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individual defences raised by the  
Defendants (Schedules B-G)

Schedule A – Agreed Attendance of the Security Service at  
Interviews of the Claimants and visits by FCO Welfare Visitors

1. The Security Service attended and/or participated in interviewing Mr Al Rawi on five occasions during his detention at Guantanamo Bay (D 56(1), (3)):

GTMO	Present	D
26 April 2003	9305	56(1)
	3276 (observing)	56(3)
9 Sept 2003	4166 "Alex"	56(1)
3 occasions	4708 "Matt"	56(1)
5-8 February 2004	702 "Martin"	

2. The Security Service attended and/or participated in interviewing Mr El Banna on one occasion during his detention at Guantanamo Bay (D 56(2), (3)).

GTMO	Present	D
26 April 2003	9305	56(2)
	3276 (observing)	56(3)

3. The Security Service attended and/or participated in interviewing Mr Belmar on three occasions during his detention in Pakistan (Belmar D 29), on seven occasions during his detention in Afghanistan (Belmar D 56), and on five occasions during his detention at Guantanamo Bay (Belmar D 85), as well as there having been six "welfare visits" (Belmar D 73, 74).

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interrogation of each of the  
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Karachi	Present	D
1 March 02	3132 "Andrew" 4708 "Matt"	29
2 March 02	3132 "Andrew" 4708 "Matt"	29
4 March 02	3132 "Andrew" 4708 "Matt"	29
Bagram		
22 June 2002	702 "Martin" 3137 "Paul"	56
24 June 2002	702 "Martin" 3137 "Paul"	56
25 June 2002	702 "Martin" 3137 "Paul"	56
26 June 2002	702 "Martin" 3137 "Paul"	56(1)
4 July 2002	One or more Security <u>Service</u> officers currently unknown.	56(2)
10 July 2002	3132 "Andrew"	56(3)
12 July 2002	3132 "Andrew"	56(3)
GTMO		
13/14 Nov 2002	Welfare Visitor 3 Unidentified Security <u>Service</u> Officers	73
13/14 Nov 2002	3524 "Ian" 3276 "Lucy" Welfare Visitor 3	73, 85(1)
25 April 03	Welfare Visitor 4 Unidentified Security <u>Service</u> Officer	74

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25 April 03	9305 3276 "Lucy"	85(2)
28 April 03	9305 3276 "Lucy" (observing)	85(3)
9 Sept 03	Welfare Visitor 4 Unidentified Security Service Officer	74
10 Sept 03	3276 "Lucy" 4166	85(4)
9 Feb 04	4708 702	85(5)
8 Mar 04	Welfare Visitor 4 US Official	74
16 July 04	Welfare Visitor 4 US official	74
3 Oct 04	Welfare Visitor 4 US official	74

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4. The Security Service interviewed Mr Deghayes on one occasion during his detention in Islamabad (Deghayes D 25), on four occasions during his detention in Afghanistan (Deghayes D 39), and on one occasion during his detention at Guantanamo Bay (Deghayes 55).

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Islamabad	Present	D
22 May 02	3132 "Andrew" Jointly with foreign Government officials	25
Bagram		
24 June 02	3137 702	39(1)
3 July 2002	3132 "Andrew" 916-1 "Jeff"	39(2)

6 July 2002	9164	39(3)
12 July 2002	3132	39(4)
GTMO		
28 April 2003	9305 3276 Foreign government official	55

5. The Security Service interviewed Mr Begg on one occasion during his detention in Pakistan (Begg D 39), during his detention in Afghanistan (Begg D 56), and on two occasions at Guantanamo Bay (Begg D 78, 83, 103).

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Pakistan	Present	D
5 Feb 02	9030 "Ian" 5066 "Louise" Foreign government officials	39
Kandahar		
10 March 2002	3132 "Andrew" 4708 "Matt"	56
11 March 2002	3132 "Andrew" 4708 "Matt"	58
13 March and possibly others between 10-11 March	Not stated	70
Bagram		
3-11 July	Series of interviews	64, 70
GTMO		
September 2003	Welfare Visitor 4,	72
25 April 2003	Welfare Visitor 4,	74
25 April 2003	9305 "John" 3276 "Lucy" Welfare Visitor 4,	78

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26 April 2003	9305 "John" 3276 "Lucy" Welfare Visitor 4,	78
27 April 2003	9305 "John" 3276 "Lucy"	78
8 September 2003	Welfare Visitor 4,	94.2
9 September 2003	3276 "Lucy" 4166 "Alex"	103
9 September 2003	Welfare Visitor 4,	93, 100
March 2003	Welfare Visitor 4,	105
9 February 2004	4798 "Matt" Another Security Service officer (unstated)	109
16 July 2004	Welfare Visitor 4, Two US officials	73, 117
3 October 2004	Welfare Visitor 4, US officials	121

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6. The Security Service interviewed Mr Mohamed on one occasion during his detention in Pakistan (Mohamed D 41-2), as well as there having been two "welfare visits" (Mohamed D 97-98).

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Pakistan	Present	D
17 May 2002	3132 "John" Foreign Government officials	43 44
25 July 2008	Welfare Visitor 5 Welfare Visitor 6	97
14 February 2009	Welfare Visitor 7 Welfare Visitor 8 Welfare Visitor 9	98

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7. The Security Service interviewed Mr Mubanga on two occasions during his detention in

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Zambia (Mubanga D 27), and on seven occasions during his detention at Guantanamo Bay (Mubanga D 37), as well as there having been seven "welfare visits" (Mubanga D 43, 46, 123).

Zambia	Present	D
23 March 2002	233 "Tony"	27,62
	Jointly with foreign government officials	29
24 March 2002	233 "Tony"	27,30-31,62
	Jointly with foreign government officials	29
GTMO		
30 May 2002	Welfare Visitor 3	43,44
	9032	37(1)
	4166	
31 May 2002	9032 "Mark"	37(2)
	Jointly with US official	
2 June 2002	9032 "Mark"	37(2)
	Jointly with US official	
13 November 2002	Welfare Visitor 3	43,45
	3276	37(3),39
	3524	
25 April 2003	Welfare Visitor 4	46,47
	Unidentified Security Service officer	
26 April 2003	9305 "John"	37(4)
	Observed by 3276	
9 September 2003	Welfare Visitor 4	46,48
	Unidentified Security Service officer	
11 September 2003	3276	37(5)
	4166	
12 September 2003	3276	37(5)

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	4166	
8 March 2004	Welfare Visitor 4 US official	46,49
16 July 2004	Welfare Visitor 4 US official	46,50
3 October 2004	Welfare Visitor 4	46,52

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**Schedule B – Bisher Al Rawi and Jamil El Banna**

The following matters are in issue between the Claimants and the Defendants:

Claimants' wording	Suggested alternative
<b>Pre-arrest</b>	
<p>1 The precise nature of Mr Al Rawi's relationship with the Security Services prior to his detention (PC 18-21; Al Rawi D 22). The Defendants have, in particular, made no admissions as to Mr Al Rawi's assertion that he met with Mr Abu Qatada at the request of the Security Services and the specific assurances of protection which Mr Al Rawi alleges he received from Security Services officers and a Security Services lawyer (PC 21.4; Al Rawi D 22);</p>	<ol style="list-style-type: none"> <li>1. Whether Mr Al Rawi has ever been involved in terrorism;</li> <li>2. The nature of the association between Mr Al Rawi and Abu Qatada prior to Mr Al Rawi travelling to The Gambia in October 2002;</li> <li>3. The nature of Mr Al Rawi's relationship with the Security Service before he travelled to The Gambia in October 2002.</li> </ol>
<p>2 The precise nature of Mr El Banna's relationship with the Security Services prior to his detention. The Defendants have denied that they sought to recruit Mr El Banna at a meeting at his home on 31<sup>st</sup> October 2002 or anything in the nature of an assurance was made to Mr El Banna, (PC 25-29; Al Rawi D 23-25). The nature of any assurance given to Mr El Banna by the Security Services.</p>	<ol style="list-style-type: none"> <li>1. Whether Mr El Banna has ever been involved in terrorism;</li> <li>2. The nature of the association between Mr El Banna and Abu Qatada prior to Mr El Banna travelling to The Gambia in October 2002;</li> <li>3. The nature of Mr El Banna's relationship with the Security Service before he travelled to The Gambia in October 2002.</li> <li>4. Whether the Note for File recording the meeting of 31 October 2002 between Mr El Banna and Security Service officer 9025 and an officer of the Metropolitan Police Special Branch is accurate.</li> </ol>
	<ol style="list-style-type: none"> <li>1. Whether Mr Al Rawi and Mr El Banna had attempted to travel to The Gambia in October 2002;</li> <li>2. What items were found in the black rucksack belonging to Mr Al Rawi;</li> <li>3. Whether those items gave cause for concern;</li> </ol>

	Claimants' wording	Suggested alternative
		<ol style="list-style-type: none"> <li>4. What steps were taken in relation to examining those items by the Security Service;</li> <li>5. Whether the decision to arrest Mr Al Rawi and Mr El Banna under section 41 of the Terrorism Act 2000 was taken entirely by the Police;</li> <li>6. What Mr Al Rawi said about the items when questioned about them;</li> <li>7. Whether subsequent Police searches of Mr Al Rawi's home address that took place following his arrest revealed further items of interest;</li> <li>8. The nature of the examination of the electronic device found in Mr Al Rawi's rucksack.</li> </ol>
3	<p>The circumstances in which one of Mr Al Rawi and Mr El Banna's travelling companions came not to travel and the precise nature of exchanges which took place between him and United Kingdom officials prior to his taking this decision. The Defendants have made no admissions in this regard.</p>	<ol style="list-style-type: none"> <li>1. Who Mr Al Rawi and Mr El Banna's travelling companions were;</li> <li>2. Whether one of Mr Al Rawi and Mr El Banna's travelling companions was 'Mr Yousif';</li> <li>3. The reason that they/he did not travel;</li> <li>4. Whether Mr Yousif was detained by the Police under the Terrorism Act 2000 as a result of telling the Police that he had checked in a bag for Mr Al Rawi that contained copies of the Koran and was subsequently released;</li> <li>5. Whether Mr Yousif was warned by any UK official not to travel.</li> </ol>
4	<p>The correct inference to draw from the telegram sent by the Security Services to United States authorities on 1 November 2002 and whether the same contained false and misleading statement in respect of Mr Al Rawi and Mr El Banna as alleged by them but denied by the Defendants</p>	<ol style="list-style-type: none"> <li>1. Whether a telegram sent by the Security Service to US authorities on 1 November 2002 was an accurate recording of the Security Service's contemporaneous understanding;</li> <li>2. Whether any inference can be drawn from the telegram;</li> <li>3. Whether the telegram was misleading and whether the telegram disguised and/or made no reference to either the fact or substance of contacts between Mr Al Rawi and Mr El Banna and the Security Service;</li> <li>4. Whether, if so, this was in accordance with standard procedures designed to ensure compliance with statutory requirements;</li> <li>5. Whether it is the case that such matters are not routinely shared between intelligence agencies.</li> </ol>
5	<p>Whether the subsequent telegrams sent by the Security Services to United States authorities were similarly false and misleading (as alleged by</p>	<ol style="list-style-type: none"> <li>1. Whether the content of each of the subsequent telegrams accurately reflected the relevant Security Service assessments at the time they were sent;</li> <li>2. When the Security Service officers who sent either of the two telegrams of 4 November 2002 and/or 8 November 2002 were aware of Fort Halstead's</li> </ol>

	Claimants' wording	Suggested alternative
	them but denied by the Defendants) and whether and when the Security Services informed United States authorities that the item referred to in their telegram of 1 November 2002 could " <i>no longer be considered to be suspicious</i> ".	<p>conclusion that the electronic device that had been found in Mr Al Rawi's rucksack was not suspicious;</p> <ol style="list-style-type: none"> <li>Whether any of the subsequent telegrams were false or misleading;</li> <li>Whether the telegram of 9 November 2002 was properly to be understood as subject to the prohibition set out in the two earlier telegrams of 1 November 2002 and 4 November 2002, i.e. that the information was "for research and analysis purposes only and may not be used as the basis of overt, covert or executive action."</li> </ol>
6	Whether the Security Services directly facilitated the original detention of Mr Al Rawi and Mr El Banna by providing United States agencies with information about their travel itineraries or alternatively were reckless or negligent in respect thereof.	<ol style="list-style-type: none"> <li>Who was responsible for the original detention of Mr Al Rawi and Mr El Banna;</li> <li>If the detention was unlawful, by what law it was so;</li> <li>Whether the Defendants or any of them were involved in the detention, and if so, how;</li> <li>Whether the Security Service provided information to US agencies about the travel itineraries of Mr Al Rawi and Mr El Banna;</li> <li>Whether the Security Service at all times was acting in pursuance of its duty to safeguard the national security of the UK.</li> <li>Whether the Security Service had a duty of care towards Mr Al Rawi and Mr El Banna.</li> <li>If so, what the required standard of care was and whether the Security Service breached it.</li> </ol>
7	Whether the Security Services and United States authorities discussed the possibility of the Foreign and Commonwealth Office providing some form of consular protection to Mr Al Rawi and Mr El Banna. This alleged by the Claimants to be the natural inference of the telegram of 8 November 2002 and 6 December 2002 but is denied by the Defendants.	<ol style="list-style-type: none"> <li>Whether any inference can be drawn from the telegrams of 8 November 2002 and 6 December 2002 and if so what;</li> <li>Whether it is likely that the telegrams of 8 November 2002 and 6 December 2002 contain a full record of the telephone conversations to which they refer.</li> </ol>
8	The precise nature of Mr Al Rawi and Mr El Banna's treatment in The Gambia. The Defendants deny that either man was mistreated in	<ol style="list-style-type: none"> <li><u>Treatment in The Gambia</u> <ol style="list-style-type: none"> <li>How Mr Al Rawi and Mr El Banna were treated in The Gambia and by whom;</li> <li>Whether any of Mr Al Rawi's and/or Mr El Banna's</li> </ol> </li> </ol>

	Claimants' wording	Suggested alternative
	The Gambia.	<p>treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person:</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
<b>Afghanistan</b>		
9	Whether the rendition of Mr Al Rawi and Mr El Banna to Afghanistan was in any way connected to the arrest and detention in the United Kingdom of Abu Qatada	<p>1. <u>'Rendition' of Mr Al Rawi and Mr El Banna to Afghanistan</u></p> <p>(a) By whom Mr Al Rawi and Mr El Banna were transferred to Afghanistan;</p> <p>(b) By whom they were detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the transfer and if so, how.</p> <p>2. Whether the transfer of Mr Al Rawi and Mr El Banna was in any way connected to the arrest and detention in the United Kingdom of Abu Qatada and if so how.</p>
10	Whether, when and in what terms the Security Services informed United States authorities of the nature of their relationship with Mr Al Rawi	Whether, when and in what terms the Security Service informed US authorities of Mr Al Rawi's previous relationship with the Security Service.
11	The precise circumstances of Mr Al Rawi's and Mr El Banna's rendition to Afghanistan, and the nature of their treatment while detained there. The Defendants make no positive case in this regard but do not admit the Claimants' allegations	<p>1. <u>'Rendition' of Mr Al Rawi and Mr El Banna to Afghanistan</u></p> <p>(a) By whom Mr Al Rawi and Mr El Banna were transferred to Afghanistan;</p> <p>(b) By whom they were detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the transfer and if so, how.</p> <p>2. <u>Treatment in Afghanistan</u></p> <p>(a) How Mr Al Rawi and Mr El Banna were treated in Afghanistan and by whom;</p> <p>(b) Whether any of Mr Al Rawi's and/or Mr El Banna's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or</p>

	Claimants' wording	Suggested alternative
		<p>to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>3. <u>Detention in Afghanistan</u></p> <p>(a) By whom Mr Al Rawi and Mr El Banna were detained in Afghanistan;</p> <p>(b) Where Mr Al Rawi and Mr El Banna were detained in Afghanistan;</p> <p>(c) If the detention was unlawful and/or arbitrary, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</p>
12	<p>The precise circumstances of Mr Al Rawi's and Mr El Banna's rendition to Guantanamo Bay, and the nature of their treatment while detained there. Again the Defendants make no positive case in this regard but do not admit the Claimants' allegations.</p>	<p>1. <u>'Rendition' to Guantanamo Bay</u></p> <p>(a) By whom Mr Al Rawi and Mr El Banna were transferred;</p> <p>(b) By whom they were detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the transfer, and if so, how.</p> <p>2. <u>Treatment in Guantanamo Bay</u></p> <p>(a) How Mr Al Rawi and Mr El Banna were treated in Guantanamo Bay and by whom;</p> <p>(d) Whether any of Mr Al Rawi's and/or Mr El Banna's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(e) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>3. <u>Detention in Guantanamo Bay</u></p> <p>(a) By whom Mr Al Rawi and Mr El Banna were detained in Guantanamo Bay;</p> <p>(b) Where Mr Al Rawi and Mr El Banna were detained in Guantanamo Bay;</p> <p>(c) If the detention was unlawful and/or arbitrary, by what law it was so;</p>

	Claimants' wording	Suggested alternative
		(d) Whether the Defendants or any of them were involved in detention, and if so, how.
13	<p>In respect of the alleged facilitation and participation in the interrogation of Mr Al Rawi and Mr El Banna by the Security Services:</p> <p>(a) The extent of any indirect involvement in the interrogation of either man by other government authorities in The Gambia or Afghanistan or GTMO by e.g. the provision of questions. (The Defendants' denial is limited to a denial of any "contact" with either man during their detention in Afghanistan);</p> <p>(b) The precise circumstances of the interrogation of Mr Al Rawi and Mr El Banna by British authorities at GTMO;</p> <p>(c) Whether during the course of one such interrogation two Security Service Officers ('Martin' and 'Matt') promised to secure Mr Al Rawi's release within a "few months" if he agreed to work for them on release.</p>	<p>1. <u>Interviews by others</u></p> <p>(a) Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK interviewing officers;</p> <p>(b) Whether Mr Al Rawi and Mr El Banna were interviewed by non-UK authorities;</p> <p>(c) The contents of any interviews of Mr Al Rawi and Mr El Banna conducted by non-UK authorities;</p> <p>(d) Whether the Security Service's purpose at all times was to safeguard the national security of the UK.</p> <p>2. <u>Interviews by the Security Service in Guantanamo Bay</u></p> <p>(a) Whether the purpose of the Security Service in conducting interviews of Mr Al Rawi and Mr El Banna was to protect national security;</p> <p>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Al Rawi and Mr El Banna in Guantanamo Bay.</p> <p>3. Whether during the course of one interview by Security Service officers a request was made by the officers to Mr Al Rawi "that he would work for the Security Services upon being released" and, if so, whether they promised that if he agreed he would be released within a few months and, if so, whether Mr Al Rawi agreed to these terms.</p>
14	The degree to which UK authorities were aware of the unlawful nature of the detention of Mr Al Rawi and Mr El Banna and of	<p>1. <u>Detention</u></p> <p>(a) By whom Mr Al Rawi and Mr El Banna were detained;</p> <p>(b) Where were they detained;</p>

	Claimants' wording	Suggested alternative
	their mistreatment.	<p>(c) If the detention was unlawful, by what law was it so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</p> <p>2. <u>Treatment</u></p> <p>(a) How Mr Al Rawi and Mr El Banna were treated during detention and by whom;</p> <p>(b) Whether any of Mr Al Rawi and/or Mr El Banna's treatment amounted to mistreatment, and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>3. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Al Rawi and/or Mr El Banna.</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants, either individually or collectively, as for example alleged at Paragraph 380 of the Particulars of Claim.</p>
15	Whether and when the Security Services first informed Ministers about the full factual background to Mr Al Rawi's case and, in particular, the nature of his relationship with the Security Services and whether an unacceptable level of delay occurred.	<p>1. Whether, when and to what extent the Security Service first informed Ministers about the factual background to Mr Al Rawi's case and in particular the nature of his relationship with the Security Service;</p> <p>2. Whether the Security Service owed Mr Al Rawi a duty of care to inform Ministers of these matters, and what the standard of care was;</p> <p>3. If so, whether the Security Service breached this duty of care.</p>
16	Whether UK authorities failed to take reasonable and appropriate steps to secure the release of the men including by providing	<p>1. Whether in or about July 2005, Mr Al Rawi's solicitor, Gareth Peirce, was shown a narrative document describing Mr Al Rawi's relationship with the Security Service at the Treasury Solicitor's office on the basis of an undertaking</p>



	Claimants' wording	Suggested alternative
	evidence to the US authorities of the previous contact between the men and the Security Service, by providing information to the Combatant Status Review Tribunals as requested by Mr Al Rawi and by the Security Services providing appropriate information to Ministers and other officials	<p>that she had given that the document would be disclosed to her in confidence for the sole purpose of considering whether she wished the document to be forwarded to the US authorities on behalf of Mr Al Rawi;</p> <ol style="list-style-type: none"> <li>Whether, having seen the document, Gareth Peirce made no request for the document to be forwarded to the US authorities;</li> <li>Whether, had such a request been made, the document would have been sent to the US authorities;</li> <li>Whether the Defendants or any of them had any legal standing to intervene in the CSRT;</li> <li>Whether and when the Security Service provided appropriate information to Ministers;</li> <li>Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK authorities, including any ongoing false imprisonment by a non-UK authority.</li> </ol>
		<ol style="list-style-type: none"> <li>Whether any binding contract was entered into between Mr Al Rawi and the Security Service;</li> <li>If there was, what the terms of that contract were;</li> <li>If there was, who the parties were to that contract;</li> <li>If there was, whether any party to the contract breached it;</li> <li>Whether, if the Defendants or any of them are liable for any breach of contract, any such liability caused harm to Mr Al Rawi;</li> <li>Whether, but for such action or omission on the part of the Defendants or any of them, Mr Al Rawi would have been released at an earlier date than 30 March 2007.</li> </ol>
17	Whether the wrongful conduct of British authorities caused harm to the men, and whether had such wrongful conduct not occurred, the men would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release.	<ol style="list-style-type: none"> <li>Whether, if the Defendants or any of them are liable for any of the alleged causes of action, any such conduct caused harm to Mr Al Rawi and/or Mr El Banna;</li> <li>Whether, but for such action or omission on the part of the Defendants or any of them, Mr Al Rawi and/or Mr El Banna would have been released at an earlier date than 30 March 2007 or 19 December 2007 respectively or would not have been subject to any torture or trespass to which the court finds that he was subject.</li> </ol>
Remedies		

	Claimants' wording	Suggested alternative
		<p>1. By the law of England and Wales:</p> <p>(a) Whether Mr Al Rawi and/or Mr El Banna has suffered personal injury for which the Defendants or any of them are liable;</p> <p>(b) Whether Mr Al Rawi and/or Mr El Banna is entitled to any damages for past or future loss of earnings for which the Defendants or any of them are liable, and if so in what amount, and/or whether Mr Al Rawi and/or Mr El Banna is entitled to any other special damages for which the Defendants or any of them are liable;</p> <p>(c) Whether Mr Al Rawi and/or Mr El Banna is entitled to any aggravated, vindictory or exemplary damages for which the Defendants or any of them are liable;</p> <p>(d) Whether Mr Al Rawi and/or Mr El Banna is entitled to a public inquiry pursuant to Articles 3 or 5 of the European Convention on Human Rights into the provision of information to the United States whilst both men were in the jurisdiction of the United Kingdom and/or by reason of any failure within the jurisdiction of the United Kingdom to correct information supplied.</p>

### Schedule C – Richard Belmar

The following matters are in issue between the Claimant and the Defendants:

	Claimant's wording	Suggested alternative
<b>Pre-arrest</b>		
1	The reason for Mr Belmar's travels to Pakistan and Afghanistan from about June 2001 and the nature of his activities in those countries until his arrest in Pakistan.	<ol style="list-style-type: none"> <li>1. Whether Mr Belmar has ever been involved in terrorism;</li> <li>2. The nature of Mr Belmar's relationship with Abu Qatada prior to Mr Belmar's detention;</li> <li>3. The reason for Mr Belmar's travels to Pakistan and Afghanistan from about 2001;</li> <li>4. The nature of his activities in those countries until his arrest in Pakistan.</li> </ol>
<b>Pakistan</b>		
2	<p>The precise nature of the interrogation and treatment of Mr Belmar in Pakistan. In particular, in respect of the interrogation of Mr Belmar by members of the Security Services in Pakistan:</p> <p>(a) The frequency and number of such interrogations;</p> <p>(b) What was said to Mr Belmar by British officials and in particular the nature of assurances and/or promises made to Mr Belmar in the course of the interrogations by Security Service</p>	<ol style="list-style-type: none"> <li>1. <u>Detention in Pakistan</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Belmar was detained in Pakistan;</li> <li>(b) Where Mr Belmar was detained;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</li> </ol> </li> <li>2. <u>Interviews by the Security Service</u> <ol style="list-style-type: none"> <li>(a) Whether the purpose of the Security Service in conducting interviews of Mr Belmar in Pakistan was to protect national security;</li> <li>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Belmar in Pakistan;</li> <li>(c) Whether Mr Belmar was forthcoming and co-operative with answers in the course of interviews;</li> <li>(d) Whether Mr Belmar declared knowledge of terrorists or terror organizations in the course of interviews by the Security Service;</li> <li>(e) Whether Mr Belmar answered questions put to him in reliance on assurances and/or promises made to Mr Belmar in the course of interviews by the Security Service;</li> <li>(f) Whether Mr Belmar was encouraged to cooperate</li> </ol> </li> </ol>

	Claimants' wording	Suggested alternative
	<p>officers and the nature of threats made to Mr Belmar that he would be taken to Jordan or Egypt if he did not cooperate (which is not admitted but not denied).</p> <p>(c) Degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar.</p>	<p>and was told that, if he did so, the Security Service officers conducting the interviews would do their best to help him.</p> <p>(g) Whether Security Service officers showed Mr Belmar a photograph of hooded and shackled prisoners in a vehicle and told him that these people were being taken to Jordan or Egypt, and whether Mr Belmar was threatened with joining the prisoners in the photograph;</p> <p>(h) Whether Mr Belmar was given any express or implied assurances that the Security Service officers were arranging with the US and/or Pakistani authorities for his return to the UK in exchange for his cooperation.</p> <p>3. <u>Interviews by others</u></p> <p>(a) Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK interviewing officers;</p> <p>(b) Whether Mr Belmar was interviewed by non-UK authorities;</p> <p>(c) The contents of any interviews of Mr Belmar conducted by non-UK authorities;</p> <p>(d) Whether the Security Service's purpose at all times was to safeguard the national security of the UK.</p> <p>4. <u>Treatment</u></p> <p>(a) How Mr Belmar was treated in Pakistan and by whom;</p> <p>(b) Whether any of Mr Belmar's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>5. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any</p>

	Claimants' wording	Suggested alternative
		<p>mistreatment suffered by Mr Belmar;</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as, for example, is alleged at Paragraph 380 of the Particulars of Claim relating to Mr Belmar.</p>
3	Whether the level of assistance afforded by the Defendants to Mr Belmar during his detention in Pakistan constituted an effective 'abandonment' of Mr Belmar, which exposed him to arbitrary detention and mistreatment amounting to torture, and was unlawful.	<p>1. <u>'Unlawful' Effective 'abandonment'</u></p> <p>(a) The nature of FCO consular activity in relation to Mr Belmar and whether, on becoming aware of Mr Belmar's detention on 13 February 2002, the FCO sought consular access to him the next day, and whether that request was repeated on 9 April 2002 and whether a response was received on 12 August 2002 that Mr Belmar was not in detention in Pakistan.</p> <p>(b) What the meaning and legal status of an effective 'abandonment' is, and if this was unlawful, by what law was this so and how.</p> <p>2. <u>Detention in Pakistan</u></p> <p>(a) By whom Mr Belmar was detained;</p> <p>(b) Where Mr Belmar was detained;</p> <p>(c) If the detention was unlawful and/or arbitrary, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</p> <p>3. <u>Mistreatment amounting to torture</u></p> <p>(a) How Mr Belmar was treated in Pakistan and by whom;</p> <p>(b) Whether any of Mr Belmar's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
4	Whether Mr Belmar had been assessed by the FBI to be suitable for release, and whether this	<p>(a) Whether the Security Service's purpose at all times was to safeguard the national security of the UK.</p> <p>(b) Whether the FBI had assessed Mr Belmar as suitable for release and/or as not linked with potential</p>

	Claimants' wording	Suggested alternative
	assessment was overruled by the Security Services.	<p>terrorism or Al Qaeda during his detention;</p> <p>(c) Who the detaining authority was for Mr Belmar's detention;</p> <p>(d) Whether the Security Service, which was not the detaining authority, had any power to overrule any FBI assessment of Mr Belmar that had been made;</p> <p>(e) Whether the Security Service did seek to overrule any FBI recommendation that Mr Belmar be released, sought to continue his detention or refused to agree that Mr Belmar should be released;</p> <p>(f) Whether the Defendants or any of them are jointly liable for the alleged continued false imprisonment by the US and/or any alleged torture or mistreatment by the US.</p>
Afghanistan (Bagram)		
5	Precise circumstances of Mr Belmar's rendition to Afghanistan and the nature of his treatment while detained there. Mr Belmar's allegations in this regard are not admitted by the Defendants.	<p>1. <u>'Rendition' to Afghanistan</u></p> <p>(a) By whom Mr Belmar was transferred to Afghanistan;</p> <p>(b) By whom he was detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the transfer and if so, how.</p> <p>2. <u>Detention in Afghanistan</u></p> <p>(a) By whom Mr Belmar was detained in Afghanistan;</p> <p>(b) Where Mr Belmar was detained;</p> <p>(c) If the detention was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention and if so, how.</p> <p>3. <u>Treatment in Afghanistan</u></p> <p>(a) How Mr Belmar was treated in Afghanistan and by whom;</p> <p>(b) Whether any of Mr Belmar's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>

	Claimants' wording	Suggested alternative
6	Precise nature of the Security Services' interrogations of Mr Belmar at Bagram.	<ul style="list-style-type: none"> <li>(a) Whether the purpose of the Security Service in conducting interviews of Mr Belmar in Bagram was to protect national security;</li> <li>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Belmar in Bagram;</li> <li>(c) Whether Mr Belmar was forthcoming and co-operative with answers in the course of interviews by the Security Service in Bagram;</li> <li>(d) Whether during interviews in Bagram, Mr Belmar provided Security Service officers with information about his journey from Afghanistan to Pakistan and his activities in Afghanistan;</li> <li>(e) Whether Mr Belmar told Security Service officers that he had sworn an oath of allegiance to Usama Bin Laden at the Al Faruq training camp and whether Security Service officers considered Mr Belmar's account to be credible.</li> <li>(f) Whether the properties of Mr Belmar's brother (Andrew) and other UK-based associates of Mr Belmar were searched pursuant to the Terrorism Act 2000 on or around 17.2.03;</li> <li>(g) Whether Mr Belmar looked anything other than well and in good health during interviews conducted with him in Afghanistan.</li> </ul>
7	Degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar in Afghanistan.	<ul style="list-style-type: none"> <li>1. <u>Detention in Afghanistan</u> <ul style="list-style-type: none"> <li>(a) By whom Mr Belmar was detained;</li> <li>(b) Where Mr Belmar was detained;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention and if so, how.</li> </ul> </li> <li>2. <u>Mistreatment in Afghanistan</u> <ul style="list-style-type: none"> <li>(a) How Mr Belmar was treated in Afghanistan;</li> <li>(b) Whether any of Mr Belmar's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</li> </ul> </li> <li>3. <u>Knowledge</u></li> </ul>

	Claimants' wording	Suggested alternative
		<p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Belmar;</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants or any of them, individually or collectively, as for example is alleged at Paragraph 380 of the Particulars of Claim relating to Mr Belmar.</p>
	<u>Guantanamo Bay</u>	
8	Precise circumstances of Mr Belmar's rendition to Guantanamo Bay, the nature of his treatment while detained there and the nature of his relationship with representatives of the Foreign Office while detained there.	<p>1. <u>'Rendition' to Guantanamo Bay</u></p> <p>(a) By whom he was transferred to Guantanamo Bay;</p> <p>(b) By whom he was detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the transfer and if so, how.</p> <p>2. <u>Treatment in Guantanamo Bay</u></p> <p>(a) How Mr Belmar was treated in Guantanamo Bay and by whom;</p> <p>(b) Whether any of Mr Belmar's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>3. <u>Nature of Mr Belmar's relationship with representatives of the FCO while detained there.</u></p> <p>(a) The frequency and purpose of the Welfare Visits made by Welfare Visitor 3 and Welfare Visitor 4 from the FCO;</p> <p>(b) The content of the Welfare Visits conducted by Welfare Visitors 3 and 4;</p> <p>(c) Whether the reason for Welfare Visitor 4's late arrival at Guantanamo Bay on 8 September 2003 was that his plane had broken down and whether this</p>



	Claimants' wording	Suggested alternative
		in turn was the reason that Mr Belmar had been kept waiting in the interrogation block, and whether the Welfare Visit instead took place on 9 September 2003.
9	Precise nature of Mr Belmar's interrogations by the Security Services while detained in Guantanamo Bay and whether he was given an assurance by them.	<ul style="list-style-type: none"> <li>(a) Whether the purpose of the Security Service in conducting interviews of Mr Belmar in Guantanamo Bay was to protect national security;</li> <li>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Belmar in Guantanamo Bay;</li> <li>(c) Whether Mr Belmar was forthcoming and co-operative with answers in the course of interviews by the Security Service in Guantanamo Bay;</li> <li>(d) Whether Mr Belmar provided information about a number of individuals based in the UK and elsewhere.</li> </ul>
10	Degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Belmar in Afghanistan. (sic.)	<ol style="list-style-type: none"> <li>1. <u>Detention in Guantanamo Bay</u> <ul style="list-style-type: none"> <li>(a) By whom was Mr Belmar detained in Guantanamo Bay;</li> <li>(b) Where Mr Belmar was detained in Guantanamo Bay;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention and if so, how.</li> </ul> </li> <li>2. <u>Mistreatment in Guantanamo Bay</u> <ul style="list-style-type: none"> <li>(a) How Mr Belmar was treated in Guantanamo Bay ;</li> <li>(b) Whether any of Mr Belmar's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</li> </ul> </li> <li>3. <u>Knowledge</u> <ul style="list-style-type: none"> <li>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Belmar;</li> <li>(b) Whether any state of knowledge can be imputed to</li> </ul> </li> </ol>

	Claimants' wording	Suggested alternative
		the Defendants, individually or collectively, as for example is alleged at Paragraph 380 of the Particulars of Claim relating to Mr Belmar.
11	Whether the Security Services deliberately intervened to frustrate the release of Mr Belmar from Guantanamo Bay and deliberately or negligently represented that evidence relied upon by the US was reliable, adequate and/or UK authorities failed themselves to take steps to assist Mr Belmar.	<ul style="list-style-type: none"> <li>(a) Whether the security and intelligence services' purpose at all times was to safeguard the national security of the UK;</li> <li>(b) Who the detaining authority was for Mr Belmar's detention;</li> <li>(c) Whether the Defendants or any of them were able to assess the reliability and/or accuracy of the evidence relied upon by the US and if so what it was;</li> <li>(d) Whether the Defendants or any of them acting within their lawful powers took steps to assist Mr Belmar insofar as they were able;</li> <li>(e) Whether the Defendants or any of them are jointly liable for the alleged continued false imprisonment by the US and/or any alleged torture or mistreatment by the US.</li> </ul>
12	Nature of Mr Belmar's hearing before the CSRT and whether the US authorities were relying on material supplied by the Security Services	<ul style="list-style-type: none"> <li>(a) Whether the US authorities were relying on material supplied by the security and intelligence services;</li> <li>(b) If so, whether the security and intelligence services acted unlawfully in supplying such information.</li> <li>(c) Whether the Defendants or any of them were involved in Mr Belmar's hearing before the CSRT and if so how.</li> </ul>
13	Whether any binding contract was entered into between Mr Belmar and the Security Services; if so, whether the Security Services breached this contract; and if so, whether those breaches of contract caused Mr Belmar to be detained for a longer period of time than he would otherwise have been.	<ul style="list-style-type: none"> <li>(a) Whether any binding contract was entered into between Mr Belmar and the Security Service;</li> <li>(b) If there was, what the terms of that contract were;</li> <li>(c) If there was, who the parties were to that contract;</li> <li>(d) If there was, whether any party to the contract breached it;</li> <li>(e) Whether, if the Defendants or any of them are liable for any breach of contract, any such liability caused harm to Mr Belmar;</li> <li>(f) Whether, but for such action or omission on the part of the Defendants or any of them, Mr Belmar would have been released at an earlier date than 25 January 2005.</li> </ul>
14	Whether the wrongful conduct of British authorities caused harm to Mr Belmar and whether had such	<ul style="list-style-type: none"> <li>(a) Whether, if the Defendants or any of them are liable for any of the alleged causes of action, any such conduct caused harm to Mr Belmar;</li> <li>(b) Whether, but for such action or omission on the part of the Defendants or any of them, Mr Belmar would</li> </ul>

	Claimants' wording	Suggested alternative
	wrongful conduct not occurred, Mr Belmar would have been released at any earlier stage than in fact occurred, or whether they lost the chance of such release.	have been released at an earlier date than 25 January 2005 or would not have been subject to any torture or trespass to which the court finds that he was subject.
Remedies		
1-4a		<p>By the law of England and Wales:</p> <ul style="list-style-type: none"> <li>(a) Whether Mr Belmar has suffered personal injury for which the Defendants or any of them are liable;</li> <li>(b) Whether Mr Belmar is entitled to any damages for past or future loss of earnings for which the Defendants or any of them are liable, and if so in what amount, and/or whether Mr Belmar is entitled to any other special damages for which the Defendants or any of them are liable;</li> <li>(c) Whether Mr Belmar is entitled to any aggravated, vindictory or exemplary damages for which the Defendants or any of them are liable;</li> <li>(d) Whether it would be irrational not to hold a public inquiry into the circumstances alleged in this case in the event that a public inquiry is ordered into the acts or omissions of the Security Service in November or December 2002 in failing to correct information regarding Mr El Banna and Mr Al Rawi.</li> </ul>

### Schedule D – Omar Deghayes

The following matters are in issue between the Claimant and the Defendants:

	Claimant's wording	Suggested alternative
Pre-arrest:		
a		<ol style="list-style-type: none"> <li>1. Whether Mr Deghayes has ever been involved in terrorism;</li> <li>2. Whether Mr Deghayes applied for nationality in 1998 but this was refused on residence grounds;</li> <li>3. The nature and purpose of Mr Deghayes' travels to Afghanistan / Pakistan from 2000 onwards.</li> </ol>
Pakistan:		
1	The precise circumstances of the arrest of Mr Deghayes in Pakistan and his treatment while detained there.	<ol style="list-style-type: none"> <li>1. <u>Arrest in Pakistan</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Deghayes was arrested;</li> <li>(b) Where Mr Deghayes was arrested;</li> <li>(c) If the arrest was unlawful, by what law was it so;</li> <li>(d) Whether any of the Defendants had any prior knowledge of Mr Deghayes's arrest;</li> <li>(e) Whether the Defendants or any of them were involved in the detention, and if so, how.</li> </ol> </li> <li>2. <u>Detention in Pakistan</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Deghayes was detained;</li> <li>(b) Where Mr Deghayes was detained;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</li> </ol> </li> <li>3. <u>Treatment in Pakistan</u> <ol style="list-style-type: none"> <li>(a) How Mr Deghayes was treated in Pakistan and by whom;</li> <li>(b) Whether any of Mr Deghayes's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</li> </ol> </li> </ol>
2	Precise circumstances	(a) Whether the purpose of the Security Service in

	Claimant's wording	Suggested alternative
	and nature of the interrogation of Mr Deghayes by the Security Services during his detention in Pakistan.	<p>conducting interviews of Mr Deghayes in Pakistan was to protect national security;</p> <p>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Deghayes in Pakistan;</p> <p>(c) Whether Mr Deghayes was forthcoming and co-operative with answers in the course of interviews;</p> <p>(d) Whether Mr Deghayes admitted going to Bosnia and that he had links with the LIFG;</p> <p>(e) Whether any specific assurance was given to Mr Deghayes by Security Service interviewers.</p>
3	Degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Deghayes in Pakistan.	<p>1. <u>Detention in Pakistan</u></p> <p>(a) By whom Mr Deghayes was detained;</p> <p>(b) Where Mr Deghayes was detained;</p> <p>(c) If the detention was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</p> <p>2. <u>'Mistreatment' in Pakistan</u></p> <p>(a) How Mr Deghayes was treated in Pakistan and by whom;</p> <p>(b) Whether any of Mr Deghayes's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>3. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Deghayes;</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as for example is alleged in Paragraph 380 of the Particulars of Claim relating to Mr Deghayes.</p>
Afghanistan		
4	Precise circumstances of Mr Deghayes' rendition to Afghanistan and the nature of his treatment	<p>1. <u>'Rendition' to Afghanistan</u></p> <p>(a) By whom Mr Deghayes was transferred to Afghanistan;</p>

	Claimants' wording	Suggested alternative
	while detained there.	<p>(b) By whom he was detained during the transfer;  (c) If the transfer was unlawful, by what law it was so;  (d) Whether the Defendants or any of them were involved in the transfer and if so, how.</p> <p>2. <u>Detention in Afghanistan</u></p> <p>(a) By whom Mr Deghayes was detained;  (b) Where Mr Deghayes was detained;  (c) If the detention was unlawful, by what law it was so;  (d) Whether the Defendants or any of them were involved in the detention; and if so, how.</p> <p>3. <u>Treatment in Afghanistan</u></p> <p>(a) How Mr Deghayes was treated in Afghanistan and by whom;  (b) Whether any of Mr Deghayes's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;  (c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
5	The degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and of the mistreatment of Mr Deghayes in Afghanistan.	<p>1. <u>Detention in Afghanistan</u></p> <p>(a) By whom Mr Deghayes was detained;  (b) Where Mr Deghayes was detained;  (c) If the detention was unlawful, by what law it was so;  (d) Whether the Defendants or any of them were involved in the detention, and if so, how.</p> <p>2. <u>'Mistreatment' in Afghanistan</u></p> <p>(a) How Mr Deghayes was treated in Afghanistan and by whom;  (b) Whether any of Mr Deghayes's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;  (c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>2. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an</p>

	Claimants' wording	Suggested alternative
		<p>allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Deghayes;</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as for example is alleged in Paragraph 380 of the Particulars of Claim relating to Mr Deghayes.</p>
6	Precise circumstances of Mr Deghayes's interrogation by the Security Services while detained in Afghanistan.	<p>(a) Whether the purpose of the Security Service in conducting interviews of Mr Deghayes in Afghanistan was to protect national security;</p> <p>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Deghayes in Afghanistan;</p> <p>(c) Whether Mr Deghayes was forthcoming and co-operative with answers in the course of interviews by the Security Service in Afghanistan;</p> <p>(d) Whether Mr Deghayes confirmed that he was well enough to be interviewed on 24 June 2002;</p> <p>(e) Whether Mr Deghayes told Security Service interviewers that he had not eaten for 2 days;</p> <p>(f) Whether any assurances were given to Mr Deghayes by Security Service interviewers;</p> <p>(g) Whether Security Service interviewers were told that Mr Deghayes did not have malaria;</p> <p>(h) Whether Mr Deghayes appeared fit and mentally alert during interview on 3 July 2002;</p> <p>(i) Whether Mr Deghayes said in interview on 6 July 2002 that he continued to eat only bread and water because the food was unpalatable.</p>
7	Degree to which the detention and interrogation of Mr Deghayes by other agencies in Pakistan and Afghanistan was based on material supplied by the Security Services wrongfully and/or without adequate assurances.	<p>1. <u>Detention by other agencies in Pakistan and Afghanistan</u></p> <p>(a) By whom the Claimant was detained;</p> <p>(b) Where the Claimant was detained;</p> <p>(c) If the detention was unlawful, by what law was it so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention and if so, how.</p> <p>2. <u>Interviews by others</u></p> <p>(a) Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK interviewing officers;</p> <p>(b) Whether Mr Deghayes was interviewed by non-UK authorities;</p>

	Claimants' wording	Suggested alternative
		<p>(c) The contents of any interviews of Mr Deghayes conducted by non-UK authorities;</p> <p>(d) Whether the Security Service's purpose at all times was to safeguard the national security of the UK.</p> <p>3. <u>Passing of information</u></p> <p>(a) Whether the security and intelligence services provided information to the US or others about Mr Deghayes;</p> <p>(b) By what law the lawfulness of the passing of information by the security and intelligence services to other authorities is to be judged;</p> <p>(c) Whether it was unlawful for information to be passed by the security and intelligence services;</p> <p>(d) Whether the Defendants or any of them made or failed to correct false statements to the US or others about Mr Deghayes.</p>
<u>Guantanamo Bay</u>		
8	<p>Precise circumstances of Mr Deghayes's rendition to Guantanamo Bay and the nature of his treatment while detained there. Save that is denied that Mr Deghayes' eye was injured at Guantanamo Bay, the Defendants make no positive case in this regard, but do not admit the Claimants' allegations.</p>	<p>1. <u>'Rendition' to Guantanamo Bay</u></p> <p>(a) By whom Mr Deghayes was transferred to Guantanamo Bay;</p> <p>(b) By whom he was detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were party to the transfer and if so, how.</p> <p>2. <u>Treatment in Guantanamo Bay</u></p> <p>(a) How Mr Deghayes was treated in Guantanamo Bay and by whom;</p> <p>(b) Whether Mr Deghayes's eye was injured at Guantanamo Bay;</p> <p>(c) Whether any of Mr Deghayes' treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(d) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
9	In respect of Mr	1. <u>Interviews by Security Service in Guantanamo Bay</u>



	Claimants' wording	Suggested alternative
	<p>Deghayes's interrogation while detained at Guantanamo Bay :</p> <p>(a) The number of occasions on which Mr Deghayes was interrogated by the Security Services while detained at Guantanamo Bay and the nature of such interrogations;</p> <p>(b) Whether and to what extent the Security Services provided information to the United States and/or Libyan authorities, wrongfully and/or without adequate assurances, that was used in connection with interrogations of Mr Deghayes by those authorities and as a basis for detaining him;</p> <p>(c) Degree to which the Security Service knew or ought to have known of the unlawful nature of the detention and mistreatment of Mr Deghayes.</p>	<p>(a) Whether the purpose of the Security Service in conducting interviews of Mr Deghayes in Guantanamo Bay was to protect national security;</p> <p>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Deghayes in Guantanamo Bay, and whether there was more than one interview by Security Service officers of Mr Deghayes in Guantanamo Bay.</p> <p>2. <u>Provision of information to the US and/or Libyan authorities</u></p> <p>(a) Whether the security and intelligence services provided information to the US or others about Mr Deghayes;</p> <p>(b) Whether and to what extent the US authorities were relying on material supplied by the security and intelligence services;</p> <p>(c) Whether the security and intelligence services were at all times acting in pursuance of their purpose to protect the national security of the UK.</p> <p>3. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Deghayes;</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as for example is alleged in Paragraph 380 of the Particulars of Claim relating to Mr Deghayes.</p>
10	Whether US authorities relied upon a video tape passed to them by or at	<p>(a) Whether Mr Deghayes declined to participate in the CSRT;</p> <p>(b) Whether the Security Service provided the US with a</p>

	Claimants' wording	Suggested alternative
	the instigation of the Security Services and failed to provide information to the US authorities which was capable of undermining the alleged connection between Mr Deghayes and persons portrayed in the video.	video of Mr Deghayes at a training camp, or whether the video had come to the US from another source; (c) Whether in fact the US relied on a fake passport, the fact that Mr Deghayes had stayed in the guesthouse of a senior Al Qaeda leader, the fact that he was a member of the LIFG and a video tape to confirm Mr Deghayes's status as an enemy combatant; (d) Whether the Security Service provided or omitted to provide other information to the US and by what law the lawfulness of these actions is to be judged.
11	Whether there was any failure on the part of the Security Services to provide the FCO and/or the Home Office with relevant and accurate information relating to the detention and interrogation of Mr Deghayes, and/or whether the Foreign Office and/or Home Office failed to take any adequate steps to investigate such matters.	(a) Whether the Defendants or any of them owed Mr Deghayes a duty of care to inform Ministers of any matters and, if so what matters and by when? (b) If so, whether the Defendants or any of them breached this duty of care. (c) Whether the FCO and/or the Home Office owed Mr Deghayes a duty of care to investigate any matters and, if so, what matters and by when? (d) If so, whether the FCO and/or the Home Office breached this duty of care.
12	Whether British authorities failed to take other reasonable steps to assist Mr Deghayes	(a) Whether any duty of care was owed by the Defendants or any of them to Mr Deghayes, and what the standard of care was; (b) Whether, if a duty of care existed, there was any breach of duty by the Defendants or any of them; (c) Whether the facts and matters referred to in paragraph 443.1 of the Particulars of Claim relating to Mr Deghayes were true facts or matters within the knowledge of officers of the Security Service; (d) Whether taking the steps referred to in the said paragraph could reasonably have been expected to have led to the release of Mr Deghayes.
13	Whether any binding contract was entered into between Mr Deghayes and the Security Services; if so, whether the Security Services breached this contract; and if so, whether those	(a) Whether any binding contract was entered into between Mr Deghayes and the Security Service; (b) If there was, what the terms of that contract were; (c) If there was, who the parties were to that contract; (d) If there was, whether any party to the contract breached it; (e) Whether, if the Defendants or any of them are liable for any breach of contract, any such liability caused

	Claimants' wording	Suggested alternative
	breaches of contract caused Mr Deghayes to be detained for a longer period of time than he would otherwise have been.	harm to Mr Deghayes; (f) Whether, but for such action or omission on the part of the Defendants or any of them, Mr Deghayes would have been released at an earlier date than 18 December 2007.
14	Whether the wrongful conduct of British authorities caused harm to Mr Deghayes and whether had such wrongful conduct not occurred, Mr Deghayes would have been released at any earlier stage than in fact occurred, or whether they lost the chance of such release.	(a) Whether, if the Defendants or any of them are liable for any of the alleged causes of action, any such conduct caused harm to Mr Deghayes; (b) Whether, but for such action or omission on the part of the Defendants or any of them, Mr Deghayes would have been released at an earlier date than 18 December 2007 or would not have been subject to any torture or trespass to which the court finds that he was subject.
Remedies		
14a		By the law of England and Wales: (a) Whether Mr Deghayes has suffered personal injury for which the Defendants are liable; (b) Whether Mr Deghayes is entitled to any damages for past or future loss of earnings for which the Defendants or any of them are liable, and if so in what amount, and/or whether Mr Deghayes is entitled to any other special damages for which the Defendants or any of them are liable; (c) Whether Mr Deghayes is entitled to any aggravated, vindictory or exemplary damages for which the Defendants or any of them are liable; (d) Whether it would be irrational not to hold a public inquiry into the circumstances alleged in this case in the event that a public inquiry is ordered into the acts or omissions of the Security Service in November or December 2002 in failing to correct information regarding Mr El Banna and Mr Al Rawi.

### Schedule E - Moazzem Begg

The following matters are in issue between the Claimant and the Defendants:

	Claimant's wording	Suggested alternative
<b>Pre-arrest</b>		
1	The precise nature of Mr Begg's involvement with training camps in Afghanistan between about 1993 and 1998	<ol style="list-style-type: none"> <li>1. Whether Mr Begg has ever been involved with terrorism;</li> <li>2. The purpose of Mr Begg's visit to Pakistan in 1993 and the nature and circumstances of his alleged offer to visit a mujahideen training camp in Afghanistan;</li> <li>3. The nature and purpose of Mr Begg's visit to the mujahideen training camp in 1993, the nature and purpose of the training camp and Mr Begg's financial contributions to extremist training;</li> <li>4. The nature and circumstances of an alleged invitation to visit a training camp run by Kurds in Iraq and the nature and purpose of the said camp and the circumstances in which it was operated and/or was closed;</li> <li>5. The nature, timing and extent of Mr Begg's contact with the 'Convoy of Mercy' and/or its representatives;</li> <li>6. Whether Mr Begg's job at DSS terminated in 1994 as a result of an allegation of obtaining property by deception;</li> <li>7. Whether Mr Begg was involved in running an Islamic bookshop in Birmingham in 1998;</li> <li>8. The nature of Mr Begg's relationship with Mr Hilali;</li> <li>9. The purpose of Mr Begg's relocation to Afghanistan in June 2001 and the nature and purpose of his subsequent activities in Afghanistan;</li> <li>10. The movements of Mr Begg and his family in Afghanistan during the Coalition invasion.</li> </ol>

Claimant's wording		Suggested alternative
Pakistan		
2	Whether and to what extent the Security Services participated in and/or facilitated the original detention of Mr Begg in Islamabad in about February 2002	<ol style="list-style-type: none"> <li>1. By whom Mr Begg was detained in about February 2002;</li> <li>2. Where Mr Begg was detained;</li> <li>3. If the detention was unlawful, by what law it was so;</li> <li>4. Whether the Defendants or any of them knew, and if so what the extent of their knowledge was, about the intention of the US and/or Pakistani authorities to detain Mr Begg prior to his detention.</li> <li>5. Whether the Defendants or any of them were involved in the detention, and if so how.</li> </ol>
3	The nature of Mr Begg's treatment during his detention in Pakistan.	<ol style="list-style-type: none"> <li>1. <u>Treatment</u> <ol style="list-style-type: none"> <li>(a) How Mr Begg was treated in Pakistan and by whom;</li> <li>(b) Whether any of Mr Begg's treatment amounted to mistreatment and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so whether the Defendants or any of them were joint tortfeasors and if so how.</li> </ol> </li> <li>2. <u>Detention</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Begg was detained;</li> <li>(b) Where Mr Begg was detained;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention, and if so how.</li> </ol> </li> </ol>
4	The precise circumstances relating to Mr Begg's interrogation in Pakistan by the Security Services, and in particular, (a) whether Mr Begg was threatened in the manner pleaded in PC 276.7 (Begg D 39.6); whether any assurances were made to Mr Begg in the form pleaded in	<ol style="list-style-type: none"> <li>(a) Whether the purpose of the Security Service in conducting interviews of Mr Begg in Pakistan was to protect national security;</li> <li>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Begg in Pakistan;</li> <li>(c) Whether Mr Begg was threatened by Security Service Officer 9030 with continued detention and/or mistreatment;</li> <li>(d) Whether Mr Begg was given an assurance by</li> </ol>

	Claimants' wording	Suggested alternative
	PC 276.9 (Begg D 39.8).	Security Service Officer 9030 that, if he answered the questions put to him, no harm would come to him and he would be released; (e) Whether Mr Begg answered the questions put to him in interview or interviews by the Security Service interviews in Pakistan fully and frankly.
5	Whether the level of assistance afforded by the Defendants to Mr Begg during his detention in Pakistan constituted an effective 'abandonment' of him, which exposed him to arbitrary detention and mistreatment amounting to torture, and was unlawful.	<p>1. <u>'Unlawful' effective 'abandonment'</u></p> <p>(a) What the meaning and legal status of an effective 'abandonment' is and if this was unlawful, by what law this was so, and how it was unlawful;</p> <p>(b) The nature of FCO consular activity in relation to Mr Begg and in particular whether the FCO made repeated requests for access to Mr Begg which was gained upon his arrival at Guantanamo Bay;</p> <p>2. <u>Detention in Pakistan</u></p> <p>(a) By whom Mr Begg was detained;</p> <p>(b) Where Mr Begg was detained;</p> <p>(c) If the detention was unlawful and/or arbitrary, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention, and if so how.</p> <p>3. <u>Mistreatment in Pakistan</u></p> <p>(a) How Mr Begg was treated in Pakistan and by whom;</p> <p>(b) Whether any of Mr Begg's treatment amounted to mistreatment and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so whether the Defendants or any of them were joint tortfeasors and if so how.</p>
Afghanistan		
6	The precise circumstances of Mr Begg's rendition to Afghanistan and the nature of his treatment while detained there.	<p>1. <u>'Rendition' to Afghanistan</u></p> <p>(a) By whom Mr Begg was transferred to Afghanistan;</p> <p>(b) By whom he was detained during the transfer;</p>

	Claimants' wording	Suggested alternative
		<p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved in the transfer and if so, how.</p> <p>2. <u>Treatment in Afghanistan</u></p> <p>(a) How Mr Begg was treated in Afghanistan and by whom;</p> <p>(b) Whether any of Mr Begg's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
7	<p>The precise circumstances of Mr Begg's interrogation by the Security Services in Afghanistan, including in particular (a) the nature of the complaints made by Mr Begg to the Security Services about the treatment he had received in Afghanistan, and (b) whether Mr Begg alleged on one or more occasions that he had been tortured.</p>	<ol style="list-style-type: none"> <li>1. Whether the purpose of the Security Service in conducting interviews of Mr Begg in Afghanistan was to protect national security;</li> <li>2. The frequency, number, content and circumstances of interviews by the Security Service of Mr Begg in Afghanistan;</li> <li>3. Whether in interview with Security Service officers on 11.3.02, Mr Begg was told that the US would only permit communication with his family via the Red Cross, but as a favour for his cooperation, they would see if they could get some family news to Mr Begg;</li> <li>4. Whether Mr Begg complained about his treatment and/or that he was being tortured or abused, and if he did make such complaints, what the nature of them was, including in particular whether Mr Begg raised complaints with Security Service Officer 3132 in July 2002 and whether these were referred to senior Security Service managers and also to FCO officials;</li> <li>5. Whether Mr Begg asked if he was being held as a UK or Pakistani citizen and he was told by the Security Service officers in interview that such a question should be addressed to US authorities, the reason for this being that the UK was not the detaining authority;</li> <li>6. Whether Security Service officers assessed Mr Begg to have been involved in extremist and/or</li> </ol>

	Claimant's wording	Suggested alternative
		terrorist activities and whether Mr Begg was questioned in relation to that assessment.
Guantanamo Bay:		
8	<p>The precise circumstances of Mr Begg's rendition to Guantanamo Bay, and the nature of his treatment while detained there.</p>	<ol style="list-style-type: none"> <li>1. <u>Rendition to Guantanamo Bay</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Begg was detained during the transfer from Afghanistan to Guantanamo Bay;</li> <li>(b) Whether the US transferred Mr Begg unlawfully, and if so, by what law it was unlawful;</li> <li>(c) Whether the Defendants or any of them were involved in the transfer and if so, how.</li> </ol> </li> <li>2. <u>Treatment in Guantanamo Bay</u> <ol style="list-style-type: none"> <li>(a) How Mr Begg was treated in Guantanamo Bay and by whom;</li> <li>(b) Whether any of Mr Begg's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</li> </ol> </li> </ol>
9	<p>With regard to the role of the Defendants in Mr Begg's detention at Guantanamo Bay:</p> <ol style="list-style-type: none"> <li>(a) The precise circumstances of the meetings between Mr Begg and members of the Security Services and Foreign Office, and in particular the nature of the complaints made by Mr Begg during such meetings.</li> <li>(b) Whether the intended prosecution of Mr Begg by the United States</li> </ol>	<ol style="list-style-type: none"> <li>1. <u>Meetings between officers of the Security Service and Mr Begg at Guantanamo Bay</u> <ol style="list-style-type: none"> <li>(a) Whether the purpose of the Security Service in conducting interviews of Mr Begg in Guantanamo Bay was to protect national security;</li> <li>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Begg in Guantanamo Bay;</li> <li>(c) Whether Mr Begg expressed the wish, in interview on 9.2.04 by Security Service officers, to have his trial in order to bring matters to a conclusion.</li> </ol> </li> <li>2. <u>Meetings between representatives of the FCO and Mr Begg at Guantanamo Bay</u> <ol style="list-style-type: none"> <li>(a) The nature, number and frequency of visits by the Welfare Visitor or visitors from the FCO to</li> </ol> </li> </ol>



	Claimants' wording	Suggested alternative
	<p>authorities was supported by the Foreign Office.</p> <p>(c) Whether Security Services intervened to frustrate release of Mr Begg.</p> <p>(d) Whether and to what extent the Security Services collaborated with the United States authorities in relation to the interrogations of Mr Begg, by requesting or instigating such interrogations, and/or by supplying information upon which such interrogations were based.</p>	<p>Mr Begg;</p> <p>(b) Whether Mr Begg told Welfare Visitor 4 on 3 occasions (in July, September and October 2004) that he had been forced to sign a statement at Guantanamo Bay, and whether his statement was credible;</p> <p>(c) What was said and by whom during the Welfare Visits.</p> <p>3. <u>Intended prosecution – supported by FCO</u></p> <p>(a) Whether the FCO supported the intended prosecution of Mr Begg before a Military Commission;</p> <p>(b) Whether the FCO expressed reservations about the Military Commissions to US authorities;</p> <p>4. <u>Frustration of release</u></p> <p>(a) Whether the security and intelligence services' purpose at all times was to protect the national security of the UK;</p> <p>(b) Who the detaining authority was for Mr Begg's detention;</p> <p>(c) Whether the Defendants or any of them are jointly liable for the alleged continued false imprisonment by the US;</p> <p>(d) Whether the security and intelligence services deliberately intervened to frustrate the release of Mr Begg.</p> <p>5. <u>Collaboration with US</u></p> <p>(a) Whether the security and intelligence services' purpose at all times was to protect the national security of the UK;</p> <p>(b) What constitutes 'collaboration' and whether and if so how collaboration constitutes a tort, and if so, which tort;</p>

	Claimants' wording	Suggested alternative
		(c) Whether and to what extent the Defendants or any of them are liable for the acts and omissions of other non-UK interviewing officers, including the US.
10	The degree to which the British authorities knew or ought to have known of the unlawful nature and of the detention of Mr Begg and of the mistreatment of him.	<p>1. <u>Detention in Guantanamo Bay</u></p> <p>(a) By whom was Mr Begg detained;  (b) Where Mr Begg was detained;  (c) If the detention was unlawful, by what law it was so;  (d) Whether the Defendants or any of them were involved in the detention and if so, how.</p> <p>2. <u>Mistreatment in Guantanamo Bay</u></p> <p>(a) How Mr Begg was treated in Guantanamo Bay;  (b) Whether any of Mr Begg's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;  (c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p> <p>3. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Begg;  (b) Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as for example is alleged at Paragraph 380 of the Particulars of Claim relating to Mr Begg.</p>
11	Whether the British authorities by their acts of omissions were complicit in the continuing detention of Mr Begg, and whether they took reasonable steps to secure his release.	<p>1. Whether the security and intelligence services' purposes at all times was to protect the national security of the UK;  2. Who the detaining authority was for Mr Begg's continuing detention;  3. Whether the security and intelligence services deliberately intervened to frustrate the release of Mr Begg;  4. Whether the Defendants or any of them are jointly liable for the alleged continued false imprisonment by the US and/or any alleged</p>

	Claimants' wording	Suggested alternative
12	Whether the wrongful conduct of British authorities caused harm to Mr Begg, and whether had such wrongful conduct not occurred, Mr Begg would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release.	<p>torture or mistreatment by the US.</p> <ol style="list-style-type: none"> <li>1. Whether, if the Defendants or any of them are liable for any of the alleged causes of action, any such conduct caused harm to Mr Begg;</li> <li>2. Whether, but for such action or omission on the part of the Defendants or any of them, Mr Begg would have been released at an earlier date than 25.1.05 or would not have been subject to any torture or trespass to which the court finds that he was subject.</li> </ol>
Remedies		
12a		<p>By the law of England and Wales:</p> <ol style="list-style-type: none"> <li>(a) Whether Mr Begg has suffered personal injury for which the Defendants or any of them are liable;</li> <li>(b) Whether Mr Begg is entitled to any damages for past or future loss of earnings for which the Defendants or any of them are liable, and if so in what amount, and/or whether Mr Begg is entitled to any other special damages for which the Defendants or any of them are liable;</li> <li>(c) Whether Mr Begg is entitled to any aggravated, vindictory or exemplary damages for which the Defendants or any of them are liable;</li> <li>(d) Whether it would be irrational not to hold a public inquiry into the circumstances alleged in this case in the event that a public inquiry is ordered into the acts or omissions of the Security Service in November or December 2002 in failing to correct information regarding Mr El Banna and Mr Al Rawi.</li> </ol>

### Schedule F - Binyam Mohamed

The following matters are in issue between the Claimant and the Defendants:

	Claimants' wording	Suggested alternative
<b>Pre-arrest</b>		
1	The nature and purpose of Mr Mohamed's activities in Pakistan and Afghanistan prior to his detention on 3 April 2002, and the reason for his travels (Mohamed PC 12-13; Mohamed D 21).	<ol style="list-style-type: none"> <li>1. The date of Mr Mohamed's travel from Britain to Pakistan;</li> <li>2. Whether Mr Mohamed had borrowed the passport with which he was arrested solely for the purpose of returning to the UK;</li> <li>3. Whether the passport that Mr Mohamed attempted to use to leave Pakistan was a passport issued on 13 July 2000 to an individual named Fouad Zouaoui;</li> <li>4. Who had effected the photograph substitution in the passport with which Mr Mohamed was arrested;</li> <li>5. The date of Mr Mohamed's travel from Pakistan to Afghanistan and how long he was in Afghanistan;</li> <li>6. The nature and purpose of Mr Mohamed's activities in Pakistan and Afghanistan prior to his detention on 3 April 2002 and the reasons for his travels;</li> <li>7. Mr Mohamed's intended destination and purpose of travel on either of the two occasions when he attempted to board flights in April 2002.</li> </ol>
<b>Pakistan</b>		
2	The precise circumstances of Mr Mohamed's original detention in Pakistan, the nature of his treatment while detained there, and whether such detention was unlawful (Mohamed PC 14-22; Mohamed D 22-28).	<ol style="list-style-type: none"> <li>1. <u>Detention</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Mohamed was detained;</li> <li>(b) Where Mr Mohamed was detained;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention, and if so, how;</li> <li>(e) Why Mr Mohamed initially gave a false name and nationality to the Pakistani authorities.</li> </ol> </li> <li>2. <u>Treatment</u> <ol style="list-style-type: none"> <li>(a) How Mr Mohamed was treated in Pakistan and by whom;</li> <li>(b) Whether any of Mr Mohamed's treatment amounted to mistreatment, and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> </ol> </li> </ol>

	Claimant's wording	Suggested alternative
		(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.
3	Whether and to what extent the Security Services knew about the conditions in which Mr Mohamed was being held and the mistreatment suffered by Mr Mohamed during his detention in Pakistan (Mohamed PC 26-27, 31, 34, 47.1-47.2; Mohamed D 27, 33-34, 38, 43-44, 54).	<p>1. <u>Knowledge</u></p> <p>(a) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the conditions of detention and/or any mistreatment suffered by Mr Mohamed;</p> <p>(b) Whether any state of knowledge can be imputed to the Defendants, individually or collectively as for example alleged at Paragraph 26 of the Mohamed Particulars of Claim.</p> <p>2. <u>Treatment</u></p> <p>(a) How Mr Mohamed was treated in Pakistan and by whom;</p> <p>(b) Whether any of Mr Mohamed's treatment amounted to mistreatment, and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
4	The precise circumstances relating to Mr Mohamed's interrogation in Pakistan by the Security Services, and in particular, (a) whether Mr Mohamed was threatened in the manner pleaded in Mohamed PC 36-37, 40, 47.3 (Mohamed D 45, 48, 53); and (b) whether Mr Mohamed asked to see a lawyer, Mohamed PC 39 (Mohamed D 47).	<p>1. <u>Interview by the Security Service</u></p> <p>(a) Whether the purpose of the Security Service in conducting an interview of Mr Mohamed in Pakistan was to protect national security;</p> <p>(b) The content and circumstances of the interview by the Security Service of Mr Mohamed in Pakistan;</p> <p>(c) Whether the Security Service interviewing officers had a reasonable belief that Mr Mohamed was a member of Al Qaeda;</p> <p>(d) Whether Mr Mohamed was threatened that he would be transferred to be tortured in a third country;</p> <p>(e) If so, who made that threat and exactly what words were used;</p> <p>(f) Whether Mr Mohamed told Security Service officer</p>

	Claimants' wording	Suggested alternative
		<p>3132 that he wished to see a lawyer;</p> <p>(g) Whether Mr Mohamed lied during the interview by the Security Service about the circumstances in which he obtained the passport with which he had attempted to leave Pakistan and his friendship with Fouad Zouaoui.</p>
<b>Morocco</b>		
5	<p>The precise circumstances of Mr Mohamed's rendition to Morocco, the lawfulness of his rendition and subsequent detention and the nature of his treatment while detained there. The Defendants make no positive case in this regard, but do not admit Mr Mohamed's allegations (Mohamed PC 48-51; Mohamed D 59).</p>	<p>1. <u>'Rendition' to Morocco</u></p> <p>(a) Whether Mr Mohamed was transferred to Morocco;</p> <p>(b) If so, by whom he was transferred;</p> <p>(c) If so, by whom was he detained during the transfer;</p> <p>(d) If the transfer was unlawful, by what law was it so;</p> <p>(e) Whether the Defendants or any of them were involved in the transfer, and if so, how.</p> <p>2. <u>Subsequent Detention in Morocco</u></p> <p>(a) Whether Mr Mohamed was detained unlawfully and incommunicado in Morocco for 18 months;</p> <p>(b) If so, by whom Mr Mohamed was detained;</p> <p>(c) If so, where Mr Mohamed was detained;</p> <p>(d) If the detention was unlawful, by what law was it so;</p> <p>(e) Whether the Defendants or any of them were involved in the detention, and if so, how.</p> <p>3. <u>Treatment in Morocco</u></p> <p>(a) How Mr Mohamed was treated in Morocco and by whom;</p> <p>(b) Whether any of Mr Mohamed's treatment amounted to mistreatment, and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</p>
6	<p>With regard to the involvement of the Security Services in the interrogation of Mr Mohamed in Morocco:</p> <p>(a) Whether and to</p>	<p>1. <u>Knowledge</u></p> <p>(a) Whether any officer of the security and intelligence services knew it to be the case that Mr Mohamed was detained in Morocco and/or was being subjected to torture or other trespass to the person;</p>

	Claimants' wording	Suggested alternative
	<p>what extent the Security Services knew about Mr Mohamed's detention in Morocco (Mohamed PC 54; Mohamed D 61), the mistreatment suffered by Mr Mohamed during his detention and in particular whether the Security Service knew or suspected that Mr Mohamed was being tortured or that there was a risk that he would be tortured (Mohamed PC 55, 59, 71.1; Mohamed D 62, 66-67, 81).</p> <p>(b) The precise nature of the Security Services' participation in and/or facilitation of the interrogation of Mr Mohamed (Mohamed PC 65-70, 71.2-71.5; Mohamed D 71-80, 83-84).</p>	<p>(b) Whether the security and intelligence services were party to a joint enterprise to detain Mr Mohamed unlawfully in Morocco and/or to torture him or subject him to trespass;</p> <p>(c) Whether any of the Defendants are jointly liable for any alleged false imprisonment, torture or trespass to the person that was committed against Mr Mohamed;</p> <p>(d) Whether any identified individual against whom an allegation of misfeasance in public office is made knew about the fact of Mr Mohamed's detention and/or conditions of detention and/or any mistreatment suffered by Mr Mohamed;</p> <p>(e) Whether any state of knowledge can be imputed to the Defendants, individually or collectively, as for example is alleged at paragraph 54 of the Mohamed Particulars of Claim.</p> <p>2. <u>Interviews by others</u></p> <p>(a) Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK interviewing officers, including but not limited to the Moroccans and US;</p> <p>(b) Whether Mr Mohamed was interviewed during the period he claims he was in Morocco;</p> <p>(c) The contents of any interviews of Mr Mohamed during the period when he claims he was in Morocco;</p> <p>(d) Whether and to what extent the Security Service provided photographs and information to the Moroccan authorities at any time when Mr Mohamed alleges he was detained in Morocco;</p> <p>(e) Whether there was a joint US/Moroccan interview in which interviewers referred to the 'British file' or questioned Mr Mohamed about two British suspected Al Qaeda members;</p> <p>(f) Whether the Security Service's purpose at all times was to protect the national security of the UK;</p> <p>(g) Whether the Security Service is liable for the alleged false imprisonment by the US and/or any alleged torture or trespass.</p>
Afghanistan		

	Claimants' wording	Suggested alternative
7	<p>The precise circumstances of Mr Mohamed's rendition to and detention in Afghanistan, the lawfulness of these actions and the nature of Mr Mohamed's treatment while detained there, including whether and to what extent the interrogations of Mr Mohamed during his detention in Afghanistan were based on information and questions supplied to the United States authorities by the Security Services (Mohamed PC 47.7, 72-78; Mohamed D 58, 87-89).</p>	<ol style="list-style-type: none"> <li>1. <u>'Rendition' to Afghanistan</u> <ol style="list-style-type: none"> <li>(a) Whether Mr Mohamed was transferred to Afghanistan;</li> <li>(b) If so, by whom he was transferred;</li> <li>(c) If so, by whom was he detained during the transfer;</li> <li>(d) If the transfer was unlawful, by what law was it so;</li> <li>(e) Whether the Defendants or any of them were involved in the transfer, and if so, how.</li> </ol> </li> <li>2. <u>Detention in Bagram</u> <ol style="list-style-type: none"> <li>(a) Whether Mr Mohamed was detained here;</li> <li>(b) If so, by whom Mr Mohamed was detained;</li> <li>(c) If so, where Mr Mohamed was detained;</li> <li>(d) If the detention was unlawful, by what law was it so;</li> <li>(e) Whether the Defendants or any of them were involved in the detention, and if so, how.</li> </ol> </li> <li>3. <u>Treatment in Bagram</u> <ol style="list-style-type: none"> <li>(a) If Mr Mohamed was detained in Bagram how he was treated there and by whom;</li> <li>(b) Whether any of Mr Mohamed's treatment in Bagram amounted to mistreatment, and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so, whether the Defendants or any of them were joint tortfeasors, and if so, how.</li> </ol> </li> <li>4. <u>Interviews by others</u> <ol style="list-style-type: none"> <li>(a) Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK interviewing officers, including but not limited to the Moroccans and US;</li> <li>(b) The contents of any interviews of Mr Mohamed during the period when he claims he was in Morocco.</li> </ol> </li> <li>5. <u>Alleged passing of information / questions</u></li> </ol>



	Claimants' wording	Suggested alternative
		<ul style="list-style-type: none"> <li>(a) Whether the Claimant was interviewed during the period when he claims he was in Afghanistan;</li> <li>(b) If so by whom he was interviewed;</li> <li>(c) Whether any such interviews relied on information provided by the Security Service;</li> <li>(d) Whether the Security Service's purpose at all times was to protect the national security of the UK;</li> <li>(e) Whether the Security Service is liable for the alleged false imprisonment by the US and/or any alleged torture or trespass.</li> </ul>
<b>Guantanamo Bay</b>		
8	Whether and to what extent the interrogations of Mr Mohamed during his detention at Guantanamo Bay were based on information and question supplied to the United States authorities by the Security Services (Mohamed PC 80; Mohamed D 91).	<p>1. <u>Alleged passing of information / questions</u></p> <ul style="list-style-type: none"> <li>(a) Whether the Claimant was interviewed during the period when he claims he was in Guantanamo Bay;</li> <li>(b) If so by whom he was interviewed;</li> <li>(c) Whether any such interviews relied on information provided by the Security Service;</li> <li>(d) Whether and to what extent the Security Service provided questions and/or information to the US whilst Mr Mohamed was detained in Guantanamo Bay;</li> <li>(e) Whether the Security Service's purpose at all times was to protect the national security of the UK;</li> <li>(f) Whether the Security Service is thereby liable for the alleged false imprisonment by the US and/or any alleged torture or trespass.</li> </ul>
9	Whether the wrongful conduct of British authorities caused harm to Mr Mohamed, and whether had such wrongful conduct not occurred, Mr Mohamed would have been released at any earlier stage than in fact occurred or whether he lost the chance of such release (eg. Mohamed PC 82-83, 101; Mohamed D 98, 101).	<ul style="list-style-type: none"> <li>1. Whether, if the Defendants are liable for any of the alleged causes of action, any such conduct caused harm to Mr Mohamed;</li> <li>2. Whether, but for such action or omission on the part of the Defendants or any of them, Mr Mohamed would have been released at an earlier date than 23 February 2009 or would not have been subject to any torture or trespass to which the court finds that he was subject.</li> </ul>
<b>Remedies</b>		

	Claimants' wording	Suggested alternative
9a		<p>By the law of England and Wales:</p> <p>(a) Whether Mr Mohamed has suffered personal injury for which the Defendants or any of them are liable;</p> <p>(b) Whether Mr Mohamed is entitled to any damages for past or future loss of earnings for which the Defendants or any of them are liable, and if so in what amount, and/or whether Mr Mohamed is entitled to any other special damages for which the Defendants or any of them are liable;</p> <p>(c) Whether Mr Mohamed is entitled to any aggravated, vindictory or exemplary damages for which the Defendants or any of them are liable;</p> <p>(d) Whether it would be irrational not to hold a public inquiry into the circumstances alleged in this case in the event that a public inquiry is ordered into the acts or omissions of the Security Service in November or December 2002 in failing to correct information regarding Mr El Banna and Mr Al Rawi.</p>

### Schedule G – Martin Mubanga

The following matters are in issue between the Claimant and the Defendants:

	Claimant's wording	Suggested alternative
<b>Pre-arrest</b>		
1	The nature and purpose of Mr Mubanga's activities in Pakistan and Afghanistan, between October 2000 and February 2002 and the reasons for his travels.	<ol style="list-style-type: none"> <li>1. The nature and purpose of Mr Mubanga's activities in Pakistan and Afghanistan, between October 2000 and February 2002 and the reasons for his travels;</li> <li>2. Whether Mr Mubanga had been involved in Islamist extremist activity.</li> </ol>
<b>Zambia</b>		
2	The precise circumstances of Mr Mubanga's original detention in Zambia, the lawfulness of that detention and the nature of Mr Mubanga's treatment while in detention.	<ol style="list-style-type: none"> <li>1. <u>Detention</u> <ol style="list-style-type: none"> <li>(a) By whom Mr Mubanga was detained;</li> <li>(b) Where Mr Mubanga was detained;</li> <li>(c) If the detention was unlawful, by what law it was so;</li> <li>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</li> </ol> </li> <li>2. <u>Treatment in Zambia</u> <ol style="list-style-type: none"> <li>(a) How Mr Mubanga was treated in Zambia and by whom;</li> <li>(b) Whether any of Mr Mubanga's treatment amounted to mistreatment, and if so, whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</li> <li>(c) If so, whether any of the Defendants were joint tortfeasors, and if so, how.</li> </ol> </li> </ol>
3	The precise circumstances of the interrogations of Mr Mubanga in Zambia, in particular by the Security Services.	<ol style="list-style-type: none"> <li>1. <u>Interviews by the Security Service</u> <ol style="list-style-type: none"> <li>(a) Whether the purpose of the Security Service in conducting interviews of Mr Mubanga in Zambia was to protect national security;</li> <li>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Mubanga in Zambia;</li> <li>(c) Whether, in an interview with Security Service Officer 233 on 24 March 2002, upon being shown a typed list of Jewish organisations, Mr Mubanga stated that the list belonged to him and that it had</li> </ol> </li> </ol>

	Claimants' wording	Suggested alternative
		<p>been given to him whilst he was in Afghanistan, and whether Mr Mubanga accepted in interview that the list was for the purposes of targeting the listed organisations;</p> <p>(d) Whether Mr Mubanga's statements about the typed list of Jewish organisations were true;</p> <p>(e) Whether 'targeting' the listed organisations meant for the purposes of a terrorist attack;</p> <p>(f) Whether or not Mr Mubanga had in fact accepted any tasking to target the listed Jewish organisations;</p> <p>(g) Whether, in the same interview on 24 March 2002, Mr Mubanga stated that he was committed to jihad.</p> <p>2. <u>Interviews by others</u></p> <p>(a) Whether and to what extent any of the Defendants are liable for the acts or omissions of other non-UK interviewing officers.</p>
3a		<p>1. Whether Mr Mubanga requested contact with the consular staff from the British High Commission while he was detained in Zambia;</p> <p>2. Whether Security Service Officer 233 refused to permit such contact with the consular staff from the British High Commission while Mr Mubanga was detained in Zambia;</p> <p>3. The role played by Her Majesty's Government officials during the period of Mr Mubanga's detention in Zambia, and what the understanding of the staff of the British High Commission was in relation to the question of consular access.</p>
<u>Guantanamo Bay</u>		
4	<p>The precise circumstances of Mr Mubanga's rendition to Guantanamo Bay and the nature of his treatment while detained there. The Defendants do not make any positive case in this regard but broadly do not admit Mr Mubanga's allegations.</p>	<p>1. <u>'Rendition' to Guantanamo Bay</u></p> <p>(a) By whom Mr Mubanga was transferred to Guantanamo Bay;</p> <p>(b) By whom he was detained during the transfer;</p> <p>(c) If the transfer was unlawful, by what law it was so;</p> <p>(d) Whether the Defendants or any of them were involved with the transfer, and if so how.</p> <p>2. <u>Detention in Guantanamo Bay</u></p> <p>(a) By whom Mr Mubanga was detained in Guantanamo</p>

	Claimants' wording	Suggested alternative
		<p>Bay;</p> <p>(b) Where Mr Mubanga was detained;</p> <p>(c) If the detention was unlawful, by what law was it so;</p> <p>(d) Whether the Defendants or any of them were involved in the detention, and if so, how.</p> <p>3. <u>Treatment in Guantanamo Bay</u></p> <p>(a) How Mr Mubanga was treated in Guantanamo Bay and by whom;</p> <p>(b) Whether any of Mr Mubanga's treatment amounted to mistreatment, and if so whether this mistreatment amounted to torture and/or to the tort of torture (if such a tort exists) and/or to trespass to the person;</p> <p>(c) If so, whether any of the Defendants were joint tortfeasors, and if so, how.</p>
5	The precise circumstances of Mr Mubanga's interrogations both by US officials and by the Security Service.	<p>1. <u>Interviews by Security Service</u></p> <p>(a) Whether the purpose of the Security Service in conducting interviews of Mr Mubanga in Zambia was to protect national security;</p> <p>(b) The frequency, number, content and circumstances of interviews by the Security Service of Mr Mubanga in Guantanamo Bay.</p> <p>2. <u>Interviews by others</u></p> <p>(a) Whether and to what extent the Defendants or any of them are liable for the acts or omissions of other non-UK interviewing officers.</p>
6	Whether the wrongful conduct of British authorities caused harm to Mr Mubanga, and whether had such wrongful conduct not occurred, Mr Mubanga would have been released at any earlier stage than in fact occurred or whether they lost the chance of such release.	<p>1. Whether, if the Defendants or any of them are liable for any of the alleged causes of action, any such conduct caused harm to Mr Mubanga;</p> <p>2. Whether, but for such action or omission on the part of the Defendants or any of them, Mr Mubanga would have been released at an earlier date than 25 January 2005 or would not have been subject to any torture or trespass to which the court finds that he was subject.</p>
Remedies		

	Claimant's wording	Suggested alternative
6a		<p>By the law of England and Wales:</p> <ul style="list-style-type: none"> <li>(a) Whether Mr Mubanga has suffered personal injury for which the Defendants or any of them are liable;</li> <li>(b) Whether Mr Mubanga is entitled to any damages for past or future loss of earnings for which the Defendants or any of them are liable, and if so in what amount, and/or whether Mr Mubanga is entitled to any other special damages for which the Defendants or any of them are liable;</li> <li>(c) Whether Mr Mubanga is entitled to any aggravated, vindictory or exemplary damages for which the Defendants or any of them are liable;</li> <li>(d) Whether it would be irrational not to hold a public inquiry into the circumstances alleged in this case in the event that a public inquiry is ordered into the acts or omissions of the Security Service in November or December 2002 in failing to correct information regarding Mr El Banna and Mr Al Rawi.</li> </ul>